

UNIVERSAL  
LIBRARY

**OU\_148599**

UNIVERSAL  
LIBRARY



OSMANIA UNIVERSITY LIBRARY

Call No. 328.48

Accession No. 27711

Author

H 32 W

Hemingford, Len

Title

What - - - does.

This book should be returned on or before the date last marked below.

---

--	--	--	--





# WHAT PARLIAMENT IS AND DOES



# WHAT PARLIAMENT IS AND DOES

*Being an Introduction to*  
Parliamentary Government in  
the United Kingdom

BY

LORD HEMINGFORD, K.B.E., P.C.

*Sometime Chairman of Committees  
and Deputy Speaker of the  
House of Commons*

CAMBRIDGE  
AT THE UNIVERSITY PRESS

1947

*Printed in Great Britain at the University Press, Cambridge*  
(*Brooke Crutchley, University Printer*)  
*and published by the Cambridge University Press*  
(*Cambridge, and Bentley House, London*)  
*Agents for U.S.A., Canada, and India: Macmillan*

# CONTENTS

<i>Preface</i>	<i>page vii</i>
----------------	-----------------

## *Chapter I. THE CONSTITUTION*

1. The Form of our Constitution	1
2. The King and the two Houses of Parliament	6
3. The Duration of a Parliament, its Annual Sessions and Daily Sitzings	7

## *Chapter II. THE TWO HOUSES OF PARLIAMENT*

1. A Visit to the House of Commons	10
2. The Speaker	14
3. The Serjeant-at-Arms	18
4. The Clerk of the House of Commons and other Clerks	19
5. The Chairman, Deputy Chairman and Temporary Chairmen	21
6. A Visit to the House of Lords	23
7. The Executive Government, Ministers, the Prime Minister, the Cabinet and the Privy Council	26
8. Non-legislative Business	32

## *Chapter III. THE WAY IN WHICH PARLIAMENT WORKS*

1. Bills and Acts of Parliament	36
2. How an Act of Parliament is made	37
3. Private Members' Bills	39
4. Private Business	41
5. Special Types and Forms of Legislation	46
6. How Business is arranged in the House of Commons	48
7. The Sovereignty of the House in its own Affairs	51
8. Committees of the whole house in the House of Commons	52
9. Other Committees	55

*Chapter IV. FINANCE*

- |                                   |                |
|-----------------------------------|----------------|
| 1. How a Tax is imposed           | <i>page</i> 59 |
| 2. The System of National Finance | 61             |

*Chapter V. POINTS OF PARLIAMENTARY PROCEDURE*

- |   |    |
|---|----|
| 1. Conduct of Debate  | 72 |
| 2. Questions  | 75 |
| 3. Quorum and Counts  | 79 |
| 4. Motions to Adjourn   | 81 |
| 5. Various Machinery for preventing Obstruction<br>or expediting Business | 84 |
| 6. Strangers and Secret Sittings  | 88 |
| 7. Public Petitions   | 90 |
| 8. A Member taking his Seat, his Salary, etc.                             | 92 |

*Chapter VI. THE JUDICIARY, POLICE AND ARMED FORCES*

- |   |     |
|---|-----|
| 1. The Judges and Courts of Law               | 96  |
| 2. The Police                                 | 101 |
| 3. The Army and the Armed Forces of the Crown | 102 |

*Chapter VII. CONCLUSION* 104*Appendix A. Members of the Government formed by Mr Attlee in August 1945* 108*Appendix B. Specimen Form of 'Guillotine' Resolution* 111*Index* 115

## PREFACE

This little book is intended to give students an elementary knowledge of our parliamentary system such as may help them to an easier study of more lengthy and authoritative books on the subject. It is hoped it may also be of interest and use to other persons who, while not aspiring to an intimate knowledge of Parliament, may yet as electors desire to have some understanding of the human machine which so greatly affects the lives of all who live in this country and for which every elector has his or her share of responsibility. As the book does not claim to be more than an elementary description of Parliament and its methods, considerations of brevity and simplicity have led to many omissions. If this moves readers to resort to other sources of information it will have succeeded in one of its objects. It is hoped that so far as it goes it is not incorrect. It was written largely at the instigation of a great headmaster, the late Dr Kenneth Fisher of Oundle: it owes much to the encouragement and advice given to me by him and by one of his assistant masters at Oundle, Mr D. S. Heesom. I have also to express my obligation to Mr S. C. Hawtrey, one of the senior clerks in the House of Commons, who on the kind suggestion of Sir Gilbert Campion has given me valuable help on technical points and details of procedure.

HEMINGFORD

*Watford, January 1947*

*Note.* What is written about the Indian Empire, was of course written before the changes pending in 1947. H.





## CHAPTER I

# THE CONSTITUTION

### I

#### *The Form of our Constitution*

THE political system of the United Kingdom is a 'Constitutional Monarchy': in other words, the country is ruled by a 'King in Parliament', the three constituent parts of which are the King, the House of Lords and the House of Commons. The King is an hereditary monarch, who 'never dies', for the moment a reigning monarch dies, his heir succeeds him. The House of Lords too, which is composed of Spiritual and Temporal Peers, is an ever-continuing, though constantly changing, assembly. Temporal Peers, being (with the exception of the 'Law Lords') hereditary, are succeeded on death by their heirs, and new Peerages are frequently created, many being conferred on men with long experience in the House of Commons. The Law Lords, seven in number, are distinguished Judges or lawyers, who are made Peers for life only, in order to strengthen the judicial element in the House of Lords, whose judicial business is explained later. As to the Spiritual Peers who are members of the House of Lords, they sit in virtue of their archbishoprics or bishoprics and are therefore constantly changing: those who are members of the House of Lords are the two Archbishops, the Bishops of London, Winchester and Durham, and the twenty-one other bishops who have been longest in occupation of an English see. The House of Commons, on the other hand,

is a Representative Assembly whose members are elected by the Commons, or in other words the common or ordinary people of all classes in the country except the Peers. Composed of members elected by the people, it is dissolved and a new body of members elected at a general election at the conclusion of a period which (under the Parliament Act) cannot exceed five years: that is the normal law, but in an emergency such as the War of 1939-45, the life of the existing House may be extended, or a general election postponed, by a special Act of Parliament.

This book deals only with the United Kingdom of Great Britain and Northern Ireland and its Parliament. But it should be remembered that the King is the ruler not only of the United Kingdom but of the whole British Empire, and is also Emperor of India; the British Empire includes the six self-governing Dominions of Canada, Australia, New Zealand, South Africa, Newfoundland and Southern Ireland, and also the British Colonies (in which should be included 'Protectorates' and 'Mandated Territories'), while the Empire of India consists of eleven British-Indian Governors' Provinces, and a large number of Indian States under their own Indian Princes who, under treaties, owe allegiance to the King as Emperor of India.

The six self-governing Dominions, originally Colonies, now have their own Parliaments and Constitutions similar to that of the United Kingdom, the formal link between them and the United Kingdom being that they all have the same monarch. But the British Colonies and Protectorates are administered under Governors appointed by the King,

and therefore come under the Parliament of the United Kingdom. The Indian Empire is under a Viceroy appointed by the King, and also to some extent comes under the Parliament of the United Kingdom, though all the British-Indian Provinces have Parliaments of their own. It is not necessary here to describe at length the various Governments of these Colonial and Indian Dependencies.

To understand the Constitution and the work of Government in the United Kingdom, it should be borne in mind that in early times the King, like almost all monarchs and chiefs in other parts of the world, whether their position was hereditary or elective or held by right of conquest, was an absolute ruler governing by virtue of his prerogative (the word 'prerogative' according to the dictionaries means an uncontrolled, not accountable, discretionary right or power); the 'Royal Prerogative' was claimed in this country in the days of the Stuarts as 'the Divine Right of Kings'. The Royal Prerogative still exists as the foundation and basis of all law and government in the country, which has grown and developed from the original absolute government: it is in the name of the Crown, i.e. the King, that all actions and proceedings of Government are carried on. In fact, the Royal Prerogative, as meaning the absolute power of the King personally, has been from time to time limited and cut down by Statutes to which the Kings and Queens have been forced to agree, and for many years now it has been exercisable by the King only on the advice of his Ministers, and therefore in effect has largely passed from the King to the Executive Government, and the Executive Government is controlled by Parliament. The Executive Government and its relations

with Parliament will be explained later on. But it must not be thought that the Royal Prerogative has ceased to exist except as the theoretical basis of our constitutional government. Limited as it is, the Royal Prerogative is in fact a power which in some directions is exercised by the Executive without their having to obtain the previous approval of Parliament. An important illustration of this is the making of treaties by this country with other countries: treaties are made in the name of the Crown and do not require the consent or approval of Parliament, although it has become a common practice, not only in this but in other countries, for an important treaty to contain a clause requiring that it shall be ratified by Parliament, or that it shall only be valid after it has been approved by Parliament. Nonetheless, treaties are made by the Crown, through the Executive Government, and unless otherwise stipulated are valid without further sanction. In other directions also the Royal Prerogative is still made use of as part of the machinery of government: for example, although it is not the King personally who decides whether or not to go to war, and whether or when a war is over, the actual and formal declarations of war and of peace are made by the King, of course on the advice of his Ministers, by virtue of the Royal Prerogative, and they are made public by Royal Proclamations read out at certain places in the capital, including generally such spots as the steps of the Royal Exchange, Temple Bar and St James's Palace, or Charing Cross, or some other place within the City of Westminster.

Matters in which the King himself personally is still concerned in the exercise of the Royal Prerogative are the

summoning and dissolution of Parliament and the appointment of his Ministers.

The King personally chooses his Prime Minister, the man who thus becomes the head of, and selects, the other members of the Administration or body of Ministers composing the Executive Government: but even in selecting his Prime Minister the King acts in accordance with established and recognised traditions, which will be more fully explained later. But the great value of the Royal Prerogative lies largely in the fact that it is not only the foundation and basis of all existing power, but is the source from which orderly government can be made effective to meet all contingencies that may arise from time to time. Incidentally, one of the great advantages of our Constitution is that it rests upon an individual, subject to control and limitations, and not upon a written document or an inanimate machine. This has done much in the past to enable development and progress to be made by orderly and peaceful methods rather than by violent action. The Prerogative still exists to be made use of in case of need, more probably in relation to developments in the Dependencies rather than in this country.

The selection of Prime Minister throws great responsibility on the King, although his choice is to a great extent subject to certain limitations and guidance. If he were to appoint a Prime Minister who could not obtain the confidence and support of Parliament, that Prime Minister would be unable to carry on, and another would have to be appointed: that is the principal limitation in practice on the King's choice. What in fact usually happens is that the outgoing or resigning Prime Minister advises the Sovereign

whom he should send for and invite to take office and form an administration: but the King makes the appointment after taking such advice as he desires, and in the event of a Prime Minister's death while in office, the King's power and responsibility would be great. It is on the advice of his Prime Minister that the King acts in summoning and dissolving Parliament. But except that the dissolution of Parliament and summoning of a new Parliament are governed by such Statutes as the Parliament Act 1911, it is the King himself who has to decide on the summoning or dissolution of Parliament: there is no other machinery by which this is done, with one important exception, namely, that on the death of the King or demise of the Crown, Parliament, if not then in session, meets automatically.

## 2

*The King and the two Houses of Parliament*

The King's duties in Parliament are the making of speeches (which will be referred to later) to Parliament, at the commencement and end of every session, there being (usually) one session every year, and giving the Royal Assent to Acts of Parliament which are of no force or validity until that assent has been given. He is not present at, and takes no part in, the ordinary meetings or deliberations of either House of Parliament: but he attends Parliament either in person or by 'a Royal Commission' representing him, on the occasions when he has to deliver a speech or to give the Royal Assent. On those occasions he attends in the House of Lords, where his Throne always stands, and the members of the House of Commons, being summoned

for the purpose, attend him at the Bar of the House of Lords.

The two Houses of Parliament, which sit separately in different Chambers, are legislative and deliberative assemblies. Although they differ greatly in their powers, and also in many ways in their forms, their proceedings are very similar, and as a rule everything done by Parliament has to be done by both Houses. The House of Commons is far the busier of the two Houses, and both has greater powers, especially, be it remembered, 'the power of the purse' or control of finance, and, naturally, closer touch with the ordinary people than the House of Lords. Therefore it is the work of the House of Commons which will be more particularly described, and the corresponding work of the House of Lords can often be described by reference to the work of the House of Commons with an occasional note as to differences, in the two Houses.

## 3

*The Duration of a Parliament, its Annual Sessions  
and Daily Sittings*

A Parliament lasts from one general election to another, each such Parliament being known as the first, second, or third, or other numbered Parliament of the reigning King. Under the existing Statute known as the Parliament Act, a Parliament cannot last longer than five years unless its life be prolonged by another special Act of Parliament, as has recently happened owing to the emergency of a great war. The life of a Parliament, being thus limited by law to five years, is in practice usually limited to about four or

four and a half years, as a Parliament cannot well do its work right up to the time of its legal end. A Parliament often lasts for a much shorter period, as it may at any time be, and often is, dissolved by the King on the advice of his Prime Minister: such an earlier dissolution comes about if the Prime Minister and his administration lose the confidence and support of the House of Commons, or if for any other reason the Prime Minister thinks an appeal to the country is necessary.

Each Parliament is divided into 'sessions', each session (with certain exceptions) lasting for nearly one year. One practical convenience of this lies in the fact that all business uncompleted at the end of a session is 'dead', and if it is to be proceeded with has to be started afresh in the new session and thus at the end of every session Parliament starts its work again, unhampered by a lot of uncompleted business. When a session is ended, Parliament is said to be 'prorogued' as distinct from an adjournment for a recess. This rule that uncompleted business is 'dead' at the end of a session and cannot be continued in a new one has seldom been departed from in regard to public business, but either House can pass a special resolution enabling an uncompleted bill to be carried over and proceeded with in the next session, and this course is not infrequently adopted in regard to Private Bills as will be explained later in dealing with Private Business.

The Annual Session usually begins late in October or early in November, and generally lasts till about twelve months from then. During that time the House of Commons (normally) sits every weekday, except Saturdays, from 2.45 p.m. till 11 or 11.30 p.m. on each day in



the week, other than Fridays, when the hours are from 11 a.m. till 4 or 4.30 p.m.

The House of Lords usually sits every day on which the House of Commons sits, but for a shorter time—sometimes only for a few minutes for formal business. It settles the times and duration of its sittings from time to time as need and convenience may dictate.

## CHAPTER II

# THE TWO HOUSES OF PARLIAMENT

### I

#### *A Visit to the House of Commons*

BEFORE going into the business of Parliament, it may be useful and interesting to pay an imaginary visit to Westminster and see the House of Commons at one of its ordinary daily sittings.

When the House of Commons opens its daily sitting, the members assemble in the Chamber and the Speaker enters, in a small picturesque procession, robed in his wig and gown, with his Train-bearer (in court dress) and Secretary, and accompanied by the Serjeant-at-Arms carrying the Mace, and by the Speaker's Chaplain in cap and gown and bands: a messenger of the House in evening dress and knee-breeches, wearing a messenger's chain of office, leads the procession. On the Speaker's arrival, prayers are said with the Speaker and his chaplain at the table of the House, and after prayers the Speaker takes the Speaker's Chair, the clerks take their places at the table, and the Serjeant-at-Arms occupies his chair at the opposite end of the House; then the House (assuming a quorum to be present, as always is the case) is fully constituted and ready to enter upon the day's business. 'Messengers' are in waiting, two at the door behind the Speaker's Chair, ready to reply to a summons by the Speaker, who can call them by a bell attached to the arm of his Chair, another at the far end of the House, waiting on the Serjeant-at-Arms; and two more

outside the main entrance. Before the sitting of the House commences we should obtain a copy of the 'Order Paper' showing the work to be done in the House. Early in the morning of every day on which the House sits, members are provided with, or can obtain from various places in the House directly they arrive, a bundle of printed papers (on a bluish kind of paper) commonly called 'the Votes'. The first of these are 'the Votes and Proceedings', as they are called, being the draft entries made by the clerks of what has been done in the House the day before; then comes the statement of the Private Business to be done at the day's sitting; next a paper setting out all the questions to be put to Ministers and answered on that day; then come what are called 'Orders of the Day', being the various items which by order of the House or the Government are put down for consideration on that day by the House. The papers mentioned above are in the nature of a proof-print: all of them (except the Votes) are reprinted on white paper before the sitting begins, and this is called the Order Paper. In both prints are set out notices which have been given under the rules of the House of any motion to be proposed, or anything of that kind.

When prayers are over, the Speaker, having taken the Chair, rises and calls on the Clerk of the House to read out the items of Private Business set down for consideration on that day. (Private Business is fully described on pp. 41-46.) The Private Business thus taken in the House is usually formal and only ten minutes is allowed for it: if any item of Private Business is opposed, or likely to take any length of time, the Chairman of Ways and Means, who has charge of Private Business, has to name another day for taking it,

or withdraw it. Private Business having been disposed of, then come 'Questions', a very important part of the proceedings of the day (dealt with in more detail on pp. 75-79). Questions, being printed on the Order Paper, are not read out: the Speaker calls Question No. 1, No. 2, and so on, and on his calling the question, the member asking it rises in his place and asks Question No. so-and-so, without reading it, and the Minister then replies. Therefore, visitors must refer to the Order Paper to enable them to follow Questions.

When Questions are over, there may be some other things to be disposed of before turning to the Orders of the Day. Between Questions and the Orders of the Day, statements may be made by Ministers, with the permission of the Speaker, on anything of importance which they have to communicate to the House; there may also be short statements by way of personal explanation on the part of some member, made with the permission of the Speaker. Questions of privilege are also raised at this time. Matters of this kind having been disposed of, the House proceeds to the Orders of the Day, as set out on the Order Paper. They are called in the order in which they appear on the Order Paper. It may happen that the first Order is not then taken, as the Minister in charge may put it off for some other day. We will suppose that the chief Order of the Day is the second reading of a bill. The bill is called by the clerk and debate thereon is commenced by the member of the Government or other member in charge of the bill, who rises and makes his speech moving that the bill be now read a second time: he is usually followed by one of the leaders of the opposition or a leading opponent of the

bill and the debate is then proceeded with. If the bill is an important one, the debate usually goes on through the whole of the sitting: if it is disposed of in a comparatively short time, the next Order is then taken in the same way.

Under the Standing Orders of the House, all contentious or opposed business (with the exception of Exempted Business referred to on the next page) has to cease at 11 p.m. and if not disposed of by that time has to be put down for and continued on some future occasion. Usually, therefore, the question before the House is disposed of at 11 o'clock. After 11 o'clock half an hour is available during which non-contentious and unopposed business may be dealt with, but at 11.30 p.m. (unless the Standing Order has been suspended) all business except Exempted Business has to come to an end automatically and the House adjourns.

On the other hand, the first Order of the Day to be taken may be that of the 'Committee of Supply' or 'Committee of Ways and Means', or some other 'committee of the whole house'; in that case the Speaker then leaves his Big Chair and the Committee Chair is taken by the Chairman, and business in Committee proceeds. When the Committee has completed its business, or in any case when 11 o'clock comes, the House resumes, the Chairman of the Committee reporting to the Speaker what the Committee has done; either that it has passed certain resolutions or that it has made progress and asks leave to sit again. Then the House deals with any non-contentious matters in the half-hour permitted for the purpose, the remaining Orders of the Day are formally read out and postponed to another day, and the House adjourns.

Certain financial and other business (commonly called Exempted Business) is not subject to this 11 o'clock rule, but may be carried on after 11 p.m., although opposed. Moreover, the House can, on the proposal of the Government, suspend the operation of the 11 o'clock rule either generally or for specified business or for a specified time, thus it is that late or all-night sittings sometimes take place.

At this point it may be well to interpose some information about the principal officers of the House who have been mentioned as present at the sitting.

## 2

### *The Speaker*

The chief of the officers of the House is, of course, the Speaker. The Speaker of the House of Commons is a person of very high position and dignity, and of great authority and power in the House. His position and dignity arise from the fact that he is officially the head and representative of the House of Commons. His authority and power arise from the fact that his powers are powers of the House of Commons, which the House, for convenience and practical purposes, has committed to him. He presides over all meetings of the House of Commons, and has to preserve order and generally to supervise the conduct of the debates and proceedings in the House: on various State occasions he attends at the head of and as the leader of the House (as for example when the House as such attends any special Service of Intercession or Thanksgiving) and also when the House of Commons is summoned to attend the King, or a Royal Commission

representing the King, in the House of Lords, or to hear a King's Speech, or to hear the Royal Assent given to Acts of Parliament.

He also speaks on behalf of the House as a whole, when necessary: for example, when he has been elected and attends in the House of Lords for the King's approval he claims on behalf of the House the ancient privileges of the House. He also corresponds on behalf of the House, with Dominion or foreign parliaments, and with the King or foreign rulers, and other persons also as may be necessary.

He is elected by the House of Commons as a whole, and is always proposed and seconded by two of the unofficial, or what are called Back-bench Members of the House, as the House jealously preserves its right to elect as Speaker whomsoever it may wish, without any dictation by or influence from the Government, but when elected by the House his election and appointment have to be approved by the King as he is officially the link between the King and the House.

He is elected for the duration of the Parliament, and therefore the election of a Speaker is the first business which has to be done by a new Parliament when it assembles after a general election; but there has been no recent case in which a Speaker who has been once elected in one Parliament has not (if willing) been re-elected in the new Parliament: nor for over a hundred years has the approval by the King been withheld from a Speaker elected by the House.

In view of his duties in the House and the special duty imposed upon him of protecting minorities and members of all groups and parties in the House, it is essential that he

should be free from all membership of or connection with any particular political party. For this reason there has for many years been a traditional convention that the man who has been Speaker in one Parliament is not opposed at the next general election in his constituency. But unfortunately, since the Labour Party in the House of Commons has come into existence, Labour candidates have declined to follow this convention, and Speaker FitzRoy was opposed in his constituency in the general election of 1935 by a recognised candidate of the Labour Party; Speaker Clifton Brown was similarly opposed in July 1945, and there are indications that the Speaker may be opposed in a similar way in the future. There are strong reasons for preserving the traditional convention that the Speaker should not be opposed in his constituency. Such opposition was disapproved by leading members of Parliament of all parties in 1935, and again in 1945; probably the opposition on both occasions was brought about mainly by the influence of the Labour Party outside Parliament and by some of the less experienced members of the Party in Parliament. The Parliamentary Labour Party did not approve such opposition.

The Speaker lives in a large house in the Palace of Westminster, a part of the buildings of the House of Commons known as Speaker's House, and he does not frequent any of the precincts of the House, never going into the smoking room or any of the dining or refreshment rooms or anywhere of that kind except upon the rare occasions on which he is called upon as Speaker to attend some particular function or meeting, and he is always attended on such occasions, and indeed in all his move-



ments anywhere in the House of Commons, including his passage from Speaker's House to the Chamber and back again, by an official known as the Speaker's Train-bearer, who sees that the way is kept clear for him wherever he goes in the precincts of the House.

The Speaker does not attend committees of the whole house, or the House in Committee, his place in presiding over the meeting of the House being taken by the Chairman. It is said, and probably quite correctly, that at one time at any rate he was not permitted to be present in the Chamber when the House was in Committee. The reason for this probably was that in ancient times he was regarded as a King's man, or as, to some extent, the nominee or representative of the King in the House, and the House always claimed the right to discuss without interference from the King or anyone else those questions of finance to which they attach so much importance. In fact, he never does attend when the House is in Committee, except that when a summons to the House of Lords is expected he usually comes into the Chamber and sits at the far end of the Government Bench ready to take the Chair of the House to receive 'Black Rod' on his arrival. Sometimes he has to wait for a considerable time for this purpose, while the House is still engaged in Committee, and no objection has been raised in recent times to his presence in the Chamber on such occasions. The rules and traditions of the House jealously guard the independence and powers of the Speaker and members are not allowed to find fault with his conduct or to do otherwise than obey all his instructions and requests unless on a special motion placed on the Order Paper in connection with his conduct or

behaviour. During the last quarter of a century, or thereabouts, notice has been given of various motions from time to time reflecting on or complaining of the conduct of the Speaker, but with only one exception, in 1925, such motions have never in fact been moved or proceeded with in any way. On the one occasion on which such a motion was moved it was heavily defeated by the House.

## 3

*The Serjeant-at-Arms*

The Serjeant-at-Arms sits in a large chair at the opposite end of the House to the Speaker. He is responsible for carrying out the Speaker's orders in regard to arrangements in the House and the preservation of order, both on the 'floor' of the House and in the Galleries: for example, if there is trouble in the House with an unruly member who is ordered by the Speaker to leave the House, it is the business of the Serjeant-at-Arms to remove him; if the member does not obey the Speaker's order to leave, the Serjeant-at-Arms goes to him and requests him to do so, and if he still refuses, the Serjeant-at-Arms reports that force is necessary, and then calls upon his messengers to remove him. The Serjeant-at-Arms is responsible (under the Speaker) for all the arrangements regarding strangers in the Galleries, and if there is any disturbance in a Gallery it is he who has to take whatever steps may be necessary, including possibly the clearing of all strangers and visitors out of the Strangers' (or other) Gallery.

He is the official custodian of the Mace. The Mace is the sign or symbol of the House and is of very great importance

because the members of the House of Commons do not constitute a House without having the Mace with them, and cannot function without it. When the House goes into a committee of the whole house, and is therefore acting not as the House but as a Committee, the Mace, which during a sitting of the House reposes on brackets on the top of the table, is taken off and put on brackets underneath the table. When therefore, as sometimes happens, the House is constantly changing from Committee to the House (as, for instance, when Committees formally pass several resolutions, the passing of all of which have to be separately reported to the House), the Serjeant-at-Arms has a good deal of physical exercise, as each time the Committee passes a resolution it has to be reported to the House, after which the House again goes into Committee, and he has to march up from his chair at the far end to the table and change the position of the Mace and return to his chair.

The Serjeant-at-Arms wears cloth court dress, with a sword when on duty.

#### 4

#### *The Clerk of the House of Commons and other Clerks*

At the table of the House sit three learned clerks, in wigs and gowns: the Clerk of the House, the clerk assistant and the second clerk assistant. When the House is in Committee only the latter two clerks sit at the table: the Chairman presiding over the Committee sits at the chair at the table in the place of the Clerk of the House, who technically is not concerned with the House in Committee.

The clerk assistant is the clerk of committees of the whole house; therefore it is that when the House is in Committee there are only two clerks instead of three seated at the table. There is a large staff of principal, senior and assistant clerks connected with the House, of whom the Clerk of the House is the head. All these clerks have to pass the Civil Service Examination in the first class, and subject thereto are appointed by the Speaker, acting upon the advice of the Clerk of the House. The Clerk of the House is a very important person who is paid a high salary and is usually a K.C.B. He (as in a lesser degree is the case with all the others of these clerks) is a man of great experience and knowledge, having probably spent all his time since his appointment after passing the Civil Service Examination in studying and learning the history and procedure of the House. He is the principal adviser of the Speaker, and indeed of other officials and ordinary members of the House on all questions of procedure. He and the other clerks at the table are responsible for drafting the proceedings of the House as entered in the *Journals*. Therefore, it is essential that whenever the House is sitting, either as a House or in Committee, at least one of these three clerks at the table should be in his place; usually when the House is sitting, except in Committee, all three clerks are present most of the time, and seldom less than two; but they are more or less interchangeable and so any one or two of the three can act, and thus each one is able to leave the House for meals. Several of the other principal and senior clerks of the House hold special positions with special duties, such as Clerk of the Public Bill Office, Clerk of the Journals, and Clerk of the Private Bill Office.

## 5

*The Chairman, Deputy Chairman  
and Temporary Chairmen*

When the House is in Committee, the Speaker is not present, and the Chairman presides in place of the Speaker.

The 'Chairman of Committees' or 'Chairman of Ways and Means' (meaning the Chairman of the Committee of Ways and Means) has a number of offices and duties, both in and outside the House. He is Chairman of, and presides over, all committees of the whole house, whether committees of Supply or of Ways and Means, committees of the whole house on bills, or any other committees of the whole house. He is also automatically, by the Deputy Speaker Act of 1885, Deputy Speaker of the House. As such he presides as Speaker and with all the Speaker's powers on any occasion when the Speaker is unavoidably absent and his absence has been announced to the House by the Clerk of the House. He also takes the place of the Speaker in the Big Chair at any time at the request of the Speaker, which in fact means that every day he relieves the Speaker for meal-times or on any other occasion when it is necessary for the Speaker to be absent for a short time. The custom used to be that the Speaker was relieved in this way for approximately an hour at, say, 5 o'clock for tea and for an hour and a half at, say, 8 o'clock for dinner; but it has been observed that the longer a man is Speaker of the House of Commons the longer he seems to take over his meals! It may well be that if the Speaker feels able to rely upon his Deputy, his meal-times gradually become considerably

extended. When the Deputy Speaker is in the Big Chair relieving the Speaker on request, he has almost all the powers of the Speaker: there are, however, certain special powers not given to the Deputy Speaker unless and except when the unavoidable absence of the Speaker has been officially announced. If, therefore, such powers are likely to be needed, the Clerk of the House announces the unavoidable absence of the Speaker so as to clothe the Deputy Speaker with full powers. He always does so when the House opens if the Speaker is absent for the whole sitting, on account of illness or otherwise, but can do so at any time during the sitting when necessary.

Besides the Chairman of Committees, there is a Deputy Chairman, who works under and with the Chairman, and has, when acting, the same powers and duties as the Chairman: the Deputy Chairman is also a Deputy Speaker and can therefore take the place of the Speaker in the Big Chair. It should be noted that no one can preside over the House in the Speaker's Chair other than the Speaker or one of the two Deputy Speakers. So far as committees of the whole house are concerned, it is technically possible for any member of the House to be summoned to take the Chair and to do so; but it is very seldom that any member except the Chairman or Deputy Chairman or one of the panel of temporary chairmen is so called upon: it has occasionally happened for a short time when the House goes into Committee unexpectedly, and no regular Chairman happens to be in the House.

Besides the Chairman and Deputy Chairman, there is a panel of not less than ten members of the House nominated by the Speaker as 'temporary chairmen'. The members of

this panel supply the chairmen for Standing Committees, which consider bills in Committee in a Committee-room, which are not referred to a committee of the whole house. These members of the panel can also, at the request of the Chairman, act as Chairman of a committee of the whole house; but they can never act as Deputy Speaker, nor occupy the Speaker's Chair, nor (as it is often called to distinguish it from the Committee Chair) 'the Big Chair'.

An important part of the duties of the Chairman are in connection with Private Bill Legislation, which is referred to on pp. 41-46.

Both the Chairman and the Deputy Chairman (like the Speaker) are members of the House; being officers of the House, they are not appointed by the Government but have to be elected by the House, though by custom it is usually the Prime Minister who proposes them: when elected they are elected for the duration of the Parliament, and are not affected by any change of Government. Like the Speaker, they too have to adopt the position of being unconnected with any political party, and they do not take part in debates or vote in divisions.

## 6

### *A Visit to the House of Lords*

Having seen the House of Commons at work, it may be well to take a brief glance at the House of Lords.

This Chamber is similar in arrangement to that of the House of Commons, but the first thing which will be noticed is that it is much more ornate, and that all the benches and seats are covered in red instead of green as in

the House of Commons. At the far end are the thrones for the King and Queen with a smaller chair for the Heir Apparent (if there be one): in front of the thrones is the Woolsack, a large red cushion or divan, on which sits the Lord Chancellor, who by virtue of that office is Speaker of the House of Lords, and at the other end, on one side, sits an officer of the House, known as 'the Gentleman Usher of the Black Rod', or more briefly as 'Black Rod'. The table in the centre of the House is similar to that in the House of Commons, but the three clerks who sit there face the Lord Chancellor on the Woolsack instead of having their backs to the Speaker as in the House of Commons. Again there are three clerks at the table, the chief of whom, the House of Lords being much older than the House of Commons, is known as the 'Clerk of the Parliaments'. The Lord Chancellor, as Speaker, has not and (in the more dignified and, as one may say, less excitable House) does not need the same powers as the Speaker of the House of Commons: the House of Lords preserves order in debate of itself, and not through its Speaker who does not interfere with the conduct of the Peers over whose debates he presides.

The Lords spend much less time over their legislative work than does the House of Commons, and speeches on bills before the House are fewer and shorter than in the Commons: the probability therefore is that when we visit a sitting of the House of Lords we shall find going on not a debate on a second reading of a bill, but an interesting, useful and high-class debate on some subject of political importance. Many bills which have been fully debated in the House of Commons are passed through their various



stages formally or with but little debate: but in the case of bills of great importance well-informed speeches are frequently delivered, and useful amendments are often made. Private Business is dealt with in a way very similar to that followed in the House of Commons, and the Chairman of Committees, usually referred to as 'Lord Chairman', who occupies a position corresponding to that of the Chairman of Committees in the House of Commons, is in charge of Private Business both in and out of the Chamber. Like the Chairman and Deputy Chairman in the House of Commons, the Chairman of Committees and certain other selected peers relieve the Lord Chancellor by presiding on the Woolsack.

Reference has already been made to the House of Lords being composed of Spiritual Peers and Temporal Peers.

The Spiritual Peers who are members of the House of Lords formerly consisted of all archbishops and bishops in occupation of English sees or dioceses. But as the number of such bishops increased, through the creation of new dioceses, it was thought necessary to place a limit on the number entitled to sit in the House of Lords. Those now entitled to do so are the Archbishops of Canterbury and York, the Bishops of London, Winchester and Durham, and the twenty-one other bishops who have been longest in occupation of an English see, thus making twenty-six in all.

Temporal Peers entitled to sit in the House of Lords, if not minors, women or lunatics, are all holders of peerages of the United Kingdom, sixteen Representative Peers of Scotland elected for each Parliament by the whole body of

Scottish Peers, and not more than twenty-eight Representative Peers of Ireland, elected for life by the whole Irish Peerage.

There are also seven (formerly four and later six) Lords of Appeal in Ordinary, otherwise commonly called Law Lords, appointed in order to strengthen the judicial membership of the House of Lords, who deal with appeals from the Courts to the House of Lords. They are Peers for life only, and their peerages do not descend to their heirs: but with that exception they have, for life, the full rights of Peers, and continue to use them even though they may resign the judicial office of Lord of Appeal in Ordinary.

Another thing may be noted about membership of the House of Lords: new peerages being constantly created, and conferred by the King upon persons prominent in all walks of life, the House of Lords is constantly reinforced by new members and the opportunity is given of retaining in, or bringing into, the counsels of the nation retiring members of the House of Commons, distinguished sailors, soldiers, airmen, lawyers, medical men, scientists, scholars, leaders of industry and of commercial and financial business, and other prominent and able men.

## 7

### *The Executive Government, Ministers, the Prime Minister, the Cabinet and the Privy Council*

Now we must consider the Executive Government, the Ministers of the Crown, the Prime Minister and the Cabinet, all of whom have already been mentioned. First a word of caution about the expression 'the Government': in political and parliamentary conversation it usually means

the Ministers of the Crown, or, as historians and constitutional lawyers sometimes call it, 'the Administration' or 'the Ministry', but sometimes it is meant to refer to the Executive Government of which Ministers are only a part and in which they are a class apart. The Executive Government carries out the administration and enforcement of the laws of the country, it may be said to be composed of two parts, one being the Ministers, and the other that immense body of permanent officials or civil servants below Ministers, composed of high officials, heads of Government Departments, senior and lower grade clerks, and such people as excise officers, inspectors of taxes, policemen, postmen, and the usual number of typists and lower grade office employees. These civil servants are not concerned with policy, and indeed in the higher ranks they are practically debarred from taking any active public part in what is called party politics: they have to carry out the policy and instructions of those who, as Ministers for the time being, compose the political government of the day.

The Ministers of the Crown, on the other hand, forming the Administration or Government of the day in parliamentary phraseology, are in quite a different position. They are essentially politicians, and it is their function to advise the monarch and to devise and settle policy; they are (with occasional slight or temporary exceptions) members of Parliament of one House or the other: they are supposed to represent the views of the majority in the House of Commons, are answerable to Parliament and are dependent upon the support of the House of Commons, which through them controls policy and the Executive Government.

The Executive Government carries out its duties, as is explained elsewhere, in the name of the Crown, the Crown in this case meaning the Sovereign as advised by Ministers, or in other words the King (or Queen) in Parliament.

Thus the Parliamentary Government, or Government of Ministers, is a liaison between Parliament and the Executive Government, controlled by and dependent on the support of the House of Commons, and thus ultimately of the electorate or people of the country.

We must now consider in rather more detail the composition of the Government of Ministers, the Cabinet and the Prime Minister or head of this Government or Administration, and also that ancient and honourable body, the Privy Council.

The number of Ministers and of Ministries varies a little from time to time, as Ministries are discontinued or new Ministries are created, and as Junior Ministers are or are not found necessary. Especially is this the case in such an emergency as that brought about by the War of 1939-45, but a list of the fifty or sixty various posts, holders of which formed the Government at the commencement of the Parliament of 1945, will be found in Appendix A (p. 108).

The Prime Minister, or First Minister of the Crown (who may or may not hold some other departmental office), is the head of the Government and approaches more nearly than anyone else to the practical ruler of the country for the time being, holding his office only so long as he retains the support of the House of Commons. Until recently the Prime Minister had no official status as such, his position being merely that of the leading Minister and holding some recognised office, such as Foreign Secretary,

or First Lord of the Treasury: but he now has official status as Prime Minister and need not necessarily hold any other Government post.

The statement that the Prime Minister approaches more nearly than anyone else to the practical ruler of the country will be understood from what has already been said; but it is worthy of rather more examination, as in his position lies to a great extent the key to the whole of our government system. To be successfully managed, a great business or undertaking of any kind usually needs one individual as head of the management. In the case of the government of this country that man is the Prime Minister, the respective positions of him and his Cabinet are not unlike those of the (whole-time) chairman of a company and his board of directors. In times of emergency the position of the Prime Minister is even more important: Mr Lloyd George in the War of 1914-18 and Mr Churchill in that of 1939-45, occupied positions approaching somewhat nearly to that of dictators, the justification for which was the advisability in a modern great war of having something like a Supreme Commander at the head of the civil government just as a Supreme Commander of the fighting forces is needed. But the immense difference between our Prime Ministers and the Dictators of other countries is that our Prime Ministers neither obtain, nor retain, their positions by force; and if and when the people have no further use for them they have to go, and they go peaceably and without any bloody revolution: the Prime Minister has to have the support of a Cabinet and that Cabinet has to retain the confidence of the House of Commons. Here is an example of the useful elasticity of our Constitution.

The Cabinet or Cabinet Council is a sort of inner committee of the Ministry composed of the most important of the Ministers, all Privy Councillors selected by the Prime Minister. Neither its numbers nor the Ministers composing it are fixed, but are determined by the Prime Minister. Its composition, both in regard to numbers and to the Ministers composing it, are not infrequently discussed in Parliament, but in practice the Prime Minister, so long at least as he retains the support of the House of Commons, settles who are members of the Cabinet: although the Cabinet is in fact the most powerful body in the country, it has no official status as such; its theoretical status is perhaps best described as that of a committee of the Privy Council, a body of which *more* will be said a little later. Usually and normally the Cabinet numbers rather over or sometimes a trifle under twenty. Composed of the chief members of the Ministry, it is the Cabinet which decides great questions of policy, and which is responsible for advising the Sovereign. The Cabinet's proceedings and discussions are strictly secret; decisions are given as decisions of the Cabinet and are in theory, and usually in practice, unanimous, and all members of the Cabinet are jointly responsible. Thus it is essential that members of the Cabinet should for the most part hold similar views, and any member thereof who disagrees seriously with his colleagues has no other course open to him than to resign.

'The King's Most Honourable Privy Council' is a very ancient body with a long history which is not within the province of this book: its practical functions as a body in the government of the country have to a great extent

ceased and been transferred to the King's Ministers, but it still remains as a body performing certain useful or formal duties. Privy Councillors are appointed by the King personally, and great care is taken in making such appointments. To be sworn a member of the Privy Council is one of the highest honours in the realm, and members of the Council are entitled to the prefix Right Honourable and take precedence of all other Commoners except Knights of the Garter, eldest sons of Peers, and younger sons of Peers of the rank of Earl or higher. Originally the *Curia Regis*, the Privy Council, was the body with whose aid and advice the King carried on his government.

The development of the Constitution has materially lessened the practical duties of the Privy Council, which are now mainly performed by the King's Ministers and by the Cabinet, which we have already described as a Committee of the Privy Council. One very important part of the Privy Council's business is the judicial work, carried out by its Judicial Committee: the Council is the supreme and final Court of Appeal from the Courts of other parts of the realm, and (a much smaller part of the work) decides ecclesiastical cases: the decisions of the Judicial Committee are in the form of advice to the King.

The many Orders made by the King, and other things made or done by him, such as Royal Proclamations, the 'pricking' of High Sheriffs, and so on, are made or done formally by 'the King in Council', and thus frequent meetings of the Privy Council are held for these purposes: but only a small number of Privy Councillors, usually about five or six, are summoned to these meetings, and the majority of them are Ministers.

Practically the only meetings now of the full Privy Council are the 'Accession Councils' held on the demise of the Crown, which every member of the Council is expected to attend if he can, and where the new Sovereign is accepted and acknowledged and takes the Accession oaths. At those meetings all Privy Councillors attend in full-dress uniform.

## 8

*Non-Legislative Business*

The business of the House, outside that of making laws, sometimes called its deliberative or non-legislative business, is of a very varied nature as there is practically nothing connected with the affairs of the country, of its people as a whole, or of groups of or individual subjects, which is not within the purview of the House of Commons. But perhaps most of its non-legislative work may be grouped under the following heads: Financial Business, Control of the Executive, Criticism of Administration, Direction of Policy, and Redress of Grievances.

Financial Business, as will be seen in that part of this book dealing specially therewith, is partly legislative and partly non-legislative. Redress of Grievances may also involve legislation, while control of the Executive, Criticism of Administration and Direction of Policy are often more or less connected with each other. Redress of Grievances, as is shown elsewhere, is often closely connected with Finance. But the most important non-legislative function of Parliament, and mainly of the House of Commons, is the control of the Executive Government.



In olden times, when Executive Government was almost entirely, or to a great extent, in the hands of the King, there were constant struggles between the King and Parliament. Parliament won in the end through obtaining control of taxation and finance, and now that the King has been practically deprived of executive power, the struggle is between Parliament and the Executive Government. Parliament still retains its supremacy, through its control of finance: but the position is complicated by the fact that the Executive Government is composed, as regards its chiefs at the head of it, of members of Parliament who have great influence and authority in Parliament. Thus it is that we often hear of the dangers of 'Bureaucracy' or of the Executive Government controlling Parliament or obtaining powers which they can exercise without the approval of Parliament.

It is not our business now to go into questions of that kind; but Parliament, or perhaps more correctly speaking the House of Commons, so long as it maintains its independence and does not allow itself to become subservient to the Government, must remain supreme through its 'power over the purse' or its ability to control the Executive by, in the last resort, refusing to grant supply, or in other words refusing to supply the Executive with the necessary funds for carrying on the Government. Thus it is that a Government or Administration which loses the confidence and support of the House of Commons has to resign. Then it may be that another Administration is formed which has such confidence and support, or there is a general election, in which the people decide by the election the political party which shall have a majority in the new House. In

practice the Government usually resigns (or dissolves Parliament and appeals to the country) if it is defeated in the House of Commons on some major question, such as the passing on second reading, of one of its principal bills, or an important question of 'supply'; or it may be defeated on a definite vote of censure, declaring that it no longer has the confidence of the House. It is the recognised custom and practice that if notice is given of an intention to move a vote of censure by the main opposition, or with any considerable amount of support, the Government always gives time for discussion and debate thereon.

As regards criticism of the administration or the direction of policy generally, the House has many opportunities for debate: such debates may take place in Committee of Supply (which affords special opportunities for criticising administration) or on motions for adjournment on a definite matter of urgent public importance, or in debates on the Consolidated Fund Bills, on which almost any subject can be debated, or in some special motion of which notice has been given, and for which the Government provides time. Grievances can be discussed on the appropriate votes in 'supply' or, especially in cases affecting an individual or small group of individuals, on ordinary motions for the adjournment, or very often, in small matters, can be dealt with so far as necessary in questions: in matters affecting a large number of people, the Government may feel obliged to, and often does, provide special time and opportunity for discussion, if the request to them to do so is backed by a sufficiently large number of members, or the matter may be made the subject of an express vote of

censure either on the Government as a whole or upon some particular Minister.

On a matter of policy the Government may of its own accord desire to obtain the views of the House, and may initiate in some form or other a special debate for the purpose.

Any subject of the King in the United Kingdom or any section or group thereof (and certain aliens living in this country) has a right to bring to the notice of a member of Parliament any hardship or grievance, and if he can persuade a member or members to take the matter up for him (as he will always be able to do in a proper case) the member or members will always in one way or another be able to raise the matter in the House of Commons. Often he can best do so by communicating personally with a Minister.

### CHAPTER III

## THE WAY IN WHICH PARLIAMENT WORKS

### I

#### *Bills and Acts of Parliament*

BILLS are of two kinds, either Public Bills or Private Bills, and when passed become Acts of Parliament. Private Bills are dealt with on p. 41. Public Bills are those which affect the whole country and people, and when passed into Acts are part of what is generally known as the Law of the Land; Private Bills and Private Acts, on the other hand, affect only particular personal or local interests.

Public Bills may be either Government Bills, that is bills which are introduced by the Government, or Private Members' Bills (not to be confused with Private Bills) which are bills introduced by private or unofficial members: but if they become Acts of Parliament, they do not differ from Acts resulting from bills introduced by the Government. Private Members' Bills which succeed in becoming Acts of Parliament are comparatively few, and generally fairly short, not being likely to be passed unless approved by the Government.

Let us now see how an Act of Parliament, that is a Public Act, is made. (A Private Act is made in a similar way, with certain special provisions described on p. 42.)

## 2

*How an Act of Parliament is Made*

A bill is introduced into one or other House of Parliament, in most cases the House of Commons, and we will assume that the bill we are talking of is what is known as a 'Commons Bill', or one introduced in the House of Commons. It has to be read three times in the House of Commons, then read three times in the House of Lords, and then has to receive the consent of the King, or 'Royal Assent'. These first, second and third readings were originally so called in the days before bills could be printed and when they were written out by hand and read to the House. The idea was that the first reading just enabled members to find out the main object and effect of the bill, the second reading was for more careful study of the principles of the bill, and the third reading was for the final passing in that particular House. The second reading is followed by a Committee stage, in which the bill is gone through and examined carefully, clause by clause, either by a committee of the whole house or by a Standing Committee (described on p. 56), and revisions or alterations are made therein as considered necessary. When the Committee has thus gone through the whole bill, it 'reports' the bill as so altered in Committee to the House. On the House receiving the reported bill from the Committee, it is open to the House to make further alterations or amendments in the bill, so that the Report stage is something akin to but not quite so wide and extensive as the Committee stage. When, therefore, the bill has gone through the Committee stage and

the Report stage, it is submitted to the House for the third reading, and if it is then passed, its passage through that particular House is completed. The bill has then to go through similar stages in the other House before being presented for the Royal Assent.

In modern times, when bills are all printed, what is called the first reading is purely formal and merely consists of notice of the intention to bring in such a bill coupled with an automatic order of the House that the bill should be printed. Thereupon copies of it are available for members to study instead of their actually hearing the bill read. The first actual stage of debate, therefore, in the House of Commons, is when the bill appears on the Order Paper as to be read for the second time. It is then, on second reading, that the main principle of the bill is discussed, considered and debated, and the House may either pass the second reading, or, if it does not approve of the bill, may reject or negative it. The usual form of refusing to pass a bill on second reading is to pass a resolution that it be read a second time at some future date, usually in six months' time. This has the effect of killing the bill, because, under a rule of the House, a bill which has been postponed in this way cannot be reintroduced and considered in the same session.

In ancient times, it was the custom when a bill was disapproved, to pass some resolution against it, and occasionally in accordance with such a resolution, the written bill was torn in pieces and thrown out, or, in some cases, literally kicked out of the House, and that was the end of it for the time being. Acts of Parliament which impose taxes, being regarded as of special importance, are subject to special arrangements, and how a tax can be imposed is considered on p. 59.

## 3

*Private Members' Bills*

A Private Member's Bill (again to be carefully distinguished from a Private Bill) means merely an ordinary Public Bill which, instead of being brought in and sponsored by the Government, as most Public Bills are, is brought in and sponsored by an ordinary private member: if, therefore, such a bill is passed into law, it becomes an ordinary Public Act of Parliament and there is no difference whatever between an Act resulting from a Government Bill and one resulting from a Private Member's Bill. But as a Private Member's Bill is beset with many and great difficulties, and is by no means so easily passed as a Government Bill, and also because so many people are apt to confuse a Private Member's Bill with a Private Bill, it is well to say something about it.

The chief difficulties in the way of a Private Member's Bill are the small amount of time available for Private Members' Business, and the fact that partly by reason of the general arrangement of business being in the hands of the Government, and partly for other reasons, it is practically impossible for a Private Member's Bill to pass and become law without the approval, or at least the benevolent neutrality, of the Government.

Owing to the lack of time for and the increasing number of Private Members' Bills desired to be introduced, the order of priority (or in other words the order of precedence of certain private members to introduce bills) is decided by ballot early in the session. Any member has a right to introduce a bill, i.e. to hand it in at the table, get it printed

and placed on the Order Paper of the House, but he has little chance of getting any further with it unless he has been fortunate in the ballot and therefore gets precedence over other Private Members' Bills in the limited time permitted for such bills. A member who is successful in this ballot introduces his bill in the ordinary way and puts it down for second reading on one of the days set apart for Private Members' Bills; then it comes up for debate upon second reading, and if it passes its second reading it is referred to a Standing Committee, and having got so far it gets precedence in later stages over other less advanced Private Members' Bills.

A special procedure sometimes adopted for Private Members' Bills is that of introducing them under what is known as 'the Ten Minutes Rule'. Under Standing Orders, on two days in the week, a member having given notice on the Order Paper may move a motion for leave to bring in a bill: if his motion is opposed, the Speaker may permit 'a brief explanatory statement' by the member moving the motion and by one member opposing it, and then puts the motion without further debate. This resolution giving leave to bring in the bill is an unnecessary extra proceeding: but it is sometimes useful, as by enabling the introducer to explain the bill to the House, he may raise interest in it and support for it, and may thus make it less difficult to obtain a second reading at the end of a sitting (when only unopposed business can be taken), through no objection being raised: but to enable him to do this, he will have to persuade the Government not to object, because it is the usual custom of the Government to see that someone objects to all second readings of this kind, unless they



(i.e. the Government) are in favour of the bill. This form of procedure is also sometimes adopted merely for purposes of publicity. It is usually referred to for convenience as 'the Ten Minutes Rule' because by the Standing Order only 'a brief explanatory statement' is permitted—which is taken to mean not more than about ten minutes, but there is no actual ten minutes limit under the Standing Order.

If a private member is fortunate enough to get a bill through the House of Commons, he must then get some member of the House of Lords to take charge of the bill in that House: but if he does that reasonably soon before the end of the session, time is not likely to be a difficult matter in the House of Lords.

A corresponding course of action has to be adopted if a Private Member's Bill is introduced in, and passed by, the House of Lords.

#### 4

#### *Private Business*

A Private Bill is a bill to deal with or to give special and particular rights and powers to or otherwise for the interest or benefit of a particular person or corporation, as distinct from a Public Bill which is of general application to the whole kingdom.

Private Business dealing with Private Bills is a distinct and special kind of Parliamentary business with many detailed regulations which need not be described in great detail here.

A Private Bill is introduced on a petition for leave to do so by the person or corporation wishing for it, usually

called the Promoter or Promoters. Notice of the bill has to be given to all parties interested or affected, and by advertisement, and persons affected have the right to oppose by lodging petitions against the bill, such opponents being usually known as 'Petitioners'.

As neither promoters nor petitioners are members of the House, these Private Bills are moved, and all formal steps in the House are taken, by the Chairman of Ways and Means, who is in general charge of all Private Business, and has to see that the interests of both promoters and petitioners are protected. The work of all parties concerned in a Private Bill is carried through by a special small class of lawyers known as Parliamentary Agents who with the help, when necessary, of members of the Parliamentary Bar draft the bill and any other necessary documents and look after what has to be done regarding their bills in the office of the Chairman of Ways and Means, and in the Private Bill office of the House.

There is a lengthy and rather complicated code of Standing Orders in both Houses relating to Private Bills, dealing with all the procedure including the giving of notices, the filing of documents, the payment of fees and other matters.

When the necessary petitions for Private Bills, with a copy in each case of the bill, have been lodged, the Lord Chairman of the House of Lords (whose duties in this respect are similar in the House of Lords to those of the Chairman of Ways and Means in the House of Commons) meets the Chairman of Ways and Means, and they arrange which of the bills shall start first in the House of Lords and which in the House of Commons.

A Private Bill has to go through all the same stages as a Public Bill, first, second and third readings, Committee and Report, as is the case with Public Bills in both Houses, and to receive the Royal Assent. The main difference and a very important one is in the Committee stage. As Private Bills deal with and affect particular private persons, it is necessary to see that justice is done as between the promoters on the one hand and the petitioners and the public on the other hand, and to see that powers are not given by the bill which will unnecessarily or improperly affect or damage other private interests, and that proper compensation is provided for in all proper cases.

These matters are investigated, fought out, and dealt with in the Committee stage, which is therefore necessarily of a judicial or semi-judicial nature. The Committee stage is taken (in both Houses) by a small specially appointed Private Bill Committee of the Select Committee type. That Committee has to judge between promoters and petitioners on all questions in difference between them, as well as to see that the bill does not offend in any way against the general policy of the House or the interests of the public or of the people as a whole; the Committee therefore hears advocates (barristers or parliamentary agents) and takes evidence on oath.

In the case of most of these bills the other stages in both Houses are purely formal. As already mentioned, Private Business is taken in the House of Commons immediately after Questions, and has to end at 3 p.m. The Chairman, after consulting the parliamentary agents as may be necessary, puts down on the Order Paper the Private Business to be taken each day, and he then moves the bills

or motions as required and for the most part they are agreed to without debate.

But Private Bills may be, and often are, opposed in the House of Commons, usually on the motion for second reading; when a bill is thus objected to, the Chairman puts it down for the next or some future day; sometimes the bill will be passed on a later day, the opponent having in the meanwhile been in touch with the promoters and having obtained the concession he wants, or been otherwise persuaded to give up his opposition. But if this is not achieved and if it becomes clear to the Chairman of Ways and Means that the bill will not be passed without debate and a possible division in the House, he has to 'set it down', putting it on the Order Paper for debate in the House at 7.30 p.m. on such day as he may fix. Then, on the day fixed, whatever business is being done in the House at 7.30 p.m. on that day is interrupted and the Private Bill is taken.

Under the Standing Orders relating to Private Business, Private Bills have to be lodged, and certain notices given, before a date early in the session. But in necessary and proper cases a Private Bill, commonly called a 'Late Bill', may be introduced at any later date in the session, with the consent and approval of the Chairman and the Standing Orders Committee. This Committee has been already mentioned in the description of various committees: it is a small committee of members set up every session in order to deal with questions of this kind.

It has already been stated (see p. 8) that the termination of a session puts an end to all bills then uncompleted. This applies to Private Bills as well as to Public Bills. It may, however, be mentioned that a resolution to 'carry over'

a Private Bill and continue it in a new session is less uncommon than in the case of a Public Bill. The usual reason for this is that Parliament is unwilling to put the parties concerned to the expense of commencing the proceedings on the bill all over again, if the non-completion is due, not to the conduct of the promoters of the bill, but to Parliament. It is therefore a common practice if a session ends before its normal time to pass such resolutions as may be necessary to allow proceedings on Private Bills to continue in the new session. If a session is thus terminated before its normal time by a dissolution of Parliament, resolutions are usually passed to enable the new Parliament to treat the stages which Private Bills have been through in the old Parliament as purely formal in the new Parliament. But if a Private Bill is unfinished at the end of a session owing to the bill being introduced as a 'Late Bill' too late in the session, or owing to delay on the part of the promoters, Parliament will not carry it over to a new session without very strong and good reason.

A difficulty sometimes arises as to whether a bill should be a Private Bill or a Public Bill. Private Bills have sometimes been objected to on the ground that they ought to be Public Bills, and on the other hand a bill introduced in the House as a Public Bill may be objected to on the ground that it should be a Private Bill. Not very infrequently it happens that a bill partakes of the nature of both a Private Bill and a Public Bill. Such a bill is called a 'Hybrid Bill'. Every bill introduced as a Public Bill has to be examined before second reading, chiefly on one question to be considered, namely, whether it affects private rights: if it does they send it to the Examiners of Private Bills, whose

business it is to see that Standing Orders relating to Private Bills have been complied with: if they find none of these Standing Orders is applicable, the bill proceeds as a Public Bill, but they may find that Standing Orders (being applicable) have been complied with, or the Standing Orders Committee may decide that the Standing Orders not complied with should be dispensed with; in either of such cases the bill proceeds as a Hybrid Bill. When a Hybrid Bill has passed its second reading, it has to be referred to a special sort of Select Committee: such a Select Committee is appointed partly by the House direct, and partly by the Selection Committee which nominates members of Private Bill Committees. That Select Committee acts very much in the same way as a Private Bill Committee, and deals just as a Private Bill Committee would do with those parts of the bill which affect private rights; when that Select Committee has completed its work and made its Report, the bill is recommitted to a committee of the whole house, and is thereafter dealt with as a Public Bill.

## 5

*Special Types and Forms of Legislation*

There are certain types of legislation differing from the ordinary Act of Parliament, which should be specially referred to.

First, Provisional Order Bills, or bills to confirm orders made by a Government department subject to confirmation in Parliament, deal in most cases with matters of a Private Bill type, and so reference should be made to

Private Business which is dealt with on p. 41. But in some cases they deal with matters of the kind which would be the subject of Public Bills. There are cases in which an Act of Parliament authorises a Government department to make a certain kind of Provisional Order, and the exact procedure must depend upon the provisions of the Act, but in most of these cases the Provisional Order Bill goes through the same procedure as an ordinary Public Bill, the Order being set out in a schedule to the bill.

Then Statutory Rules and Orders are important, and have lately become more so; they are what is generally spoken of as 'Delegated Legislation'. These Rules and Orders when fully passed and confirmed or approved as may be necessary have to all intents and purposes the same force and effect as Acts of Parliament. They are Rules or Orders which are made by a Minister or by a Government department under power to that effect given by an Act of Parliament, Parliament having thus 'delegated' to the Minister or Government department, Parliament's power of legislation within certain defined limits or for some named purpose. What Parliament has to do with them depends in every case on the terms of the Act which gives the power, and there is much variation in this. Parliament can of course revoke or repeal any Rule or Order, just as it can repeal any existing Act or Law: but the Act giving the Power usually contains some special provision to enable Parliament to deal with any such Rule or Order, and these provisions vary considerably, they sometimes merely provide for the Rule or Order to be 'laid on the table' of each House, thus giving formal notice of what has been done, and leaving Parliament, if it sees fit, to take any

course it may think right in regard thereto. In other cases, they provide for the Order requiring the affirmative approval of Parliament, or that it may be revoked by an Address to the Crown within a specified time.

By an Act, often called the Church Enabling Act, Parliament has delegated to the National Assembly of the Church of England practically the entire legislative functions of Parliament in all matters relating to the affairs of the Church of England, subject to certain special machinery, and with the provision that all such legislation passed by the Assembly shall be approved by Parliament. This Ecclesiastical legislation is effected by what are called 'Measures' instead of Acts: if Parliament approves them, they are presented to the King for the Royal Assent, which has to be given to them just as it has to be given to Acts of Parliament. If Parliament refuses its approval, they are dead, as a bill would be if defeated.

Lastly, mention should be made of 'Hybrid Bills' or bills which are partly of the nature of Public Bills, but also partly of the nature of Private Bills, they have been described already under 'Private Business' on pp. 45-46.

## 6

### *How Business is Arranged in the House of Commons*

The House of Commons may be said to be under the guidance or leadership (but not the control) of what is usually called 'the Government' of the day, or more formally and correctly 'the Administration', meaning His Majesty's Ministers under the Prime Minister: this 'Government', as it is usually called, is the Head of the Executive



Government, and is the link between Parliament and the Executive: it is composed of leaders of the political party which for the time being has the support of the majority of the House of Commons. If it fails to have, or loses, the support of the House of Commons, it cannot carry on the government of the country, and therefore has to resign: in that case there may be, and probably will be, a general election, and upon the House of Commons thus elected depends which party can form a Government having the support of the House. It may be a House which will support the old Government, or it may be one which supports a Government of leaders of another party. Thus it will be seen that indirectly it is the people of the country who decide what sort of persons, holding what particular views or advocating what particular policy generally, are to form the Government of the country. Ministers have a sort of dual capacity, as Members of Parliament and as heads of the Executive Government, and it is in this way, and through what is usually called the Government, i.e. the Ministers of the Crown, that Parliament controls the Executive Government: they are the heads of the Executive Government, consisting as mentioned above of the permanent civil servants or servants of the Crown, and they are the Ministers on whose advice the King acts; they are as such Ministers of the Crown responsible to Parliament. They are all of them (with certain rare and generally brief exceptions, which need not be considered here) members of one or other House of Parliament, not necessarily of the House of Commons, as some must for practical purposes be members of the House of Lords. So both Houses have members of the Government who can both guide and lead

the House in its work, and can be questioned by and represent the Government in that House. But in fact in these days most of the chief members of the Government are members of the House of Commons, therefore in the House of Lords it may be, and often is, the case that a Minister in that House has to answer for other Ministers: most Ministers have an assistant or under-Minister, usually known as the Parliamentary Secretary to the Ministry. Thus besides the Secretaries of State of the Foreign Office, the Home Office, the Dominions Office and the Colonial Office, there is a Parliamentary Secretary for Foreign Affairs, for the Home Office, Dominions Office and Colonial Office; therefore it may be, and often is, that a Minister concerned with one Government Office is in one House, and the Parliamentary Secretary or other under-Minister for that Office is in the other House, so that there is in each House an actual member of the House who represents the Government in respect of that Office in the House.

As regards business in the House of Commons, Standing Orders provide that Government business has precedence (unless the House otherwise orders) at every sitting of the House except at those times when private members' business has precedence: but in case of need, and usually towards the end of the session, the Government gets the House to pass a motion giving the whole of the time to Government business. Subject to certain Standing Orders which provide for private business and certain other proceedings being taken at certain times, and for priority at times of certain business, the Government has the right of arranging the order in which business shall be taken.

## 7

*The Sovereignty of the House in its own Affairs*

The House of Commons claims and has complete independence and absolutely autocratic powers in regard to its own proceedings, methods and conduct. It has certain Standing Orders which it has approved and passed from time to time, but these are not, and are not intended to be, by any means a complete code of regulations—they can be revoked, suspended or altered by the House at any time. Some of them, as will be seen later, date back for centuries, and really put on record some of the liberties, rights or privileges obtained from time to time from the Crown, while others deal with matters relating to the methods of procedure in debate. But the House has very full and complete regulations and rules, which are enforced unless and until the House in its absolute power sees fit to revoke or alter or suspend any of them. These regulations and rules are not, and could not conveniently be, set out in writing as a code: they may be said to be enshrined in traditions and customs, fortified by precedents and decisions of the House or its Speaker: anything like a complete knowledge of them can only be obtained by experience and long study of the subject: there are numerous books, mostly long and difficult to assimilate, which deal with such matters: the best known, and the one most generally used and generally referred to is Erskine May's *Parliamentary Procedure*, but as changes and developments are constantly taking place, it does not do to depend too much upon it, and new editions are very necessary from time to time: the reference here is to the

13th edition, published in 1924, and a new 14th edition was published in 1946. But a comparatively small book known as the *Manual of Procedure in the Public Business* is printed under the authority of the Speaker for the use of members.

The House of Lords settles its own procedure likewise: in essentials it is similar to that in the House of Commons, but in many detailed respects is very different.

## 8

### *Committees of the whole house in the House of Commons*

Committees of the House of Commons may be divided into committees of the whole house and other Committees: committees of the whole house in the House of Commons, being composed of all members of the House, are in appearance and in many respects very similar to the House itself, the main difference being that the House carries out certain business as a House, while other business is referred to a committee of the whole house, which reports from time to time to the House what it has done: there are various reasons for certain work being done by a committee of the whole house instead of by the House itself, one being that it is useful and convenient to have slight differences in Rules of Procedure and so on in Committee, as for example permitting a member to speak as often as necessary or convenient, instead of his being limited to one speech.

Committees of the whole house are of various kinds: they include (1) Committees to consider Bills, (2) Committee of Supply, (3) Committee of Ways and Means, (4) Committees to consider Money Resolutions, and (5) Other committees of the whole house.

Committees of the whole house on bills require but little special attention here. As a general rule bills which have passed their second reading are referred to a Standing Committee in order to save time and work in the House, but financial or money bills, bills imposing taxes, Consolidated Fund and appropriation bills, and bills for confirming Provisional Orders, are not so referred but must be taken in committee of the whole house. Moreover, the House can at any time refer any bill to a committee of the whole house. This is often done as a saving of time and trouble in the case of Short Bills, when the Committee stage is likely to be purely formal or very short. Occasionally, too, a very long and big bill has been referred to a committee of the whole house on account of its importance. Procedure in these Committees is much the same as in the House, except that the debate is rather less formal, and that there is no limit on the number of times a member may speak to a question.

The Committee of Supply, as it sits frequently, is 'set up' early in the session, and remains in existence until it is closed at the end of the session. It is the Committee which authorises payments for specified purposes to the Crown (i.e. the Executive Government) out of the Exchequer. A certain number of days (usually twenty) known as 'Supply Days' are specially set apart in every session for the Committee of Supply, and on these days no other business can be taken. This is to ensure that members of the Commons shall have time to consider demands of the Crown for money, and to discuss its 'grievances' which it may desire to have remedied, therefore in Committee of Supply the House has special opportunities of considering

and discussing the conduct of the Executive and of criticising the action of Ministers. The debates in Committee of Supply are often long and very important, particularly those which take place on the vote for the money to pay the salary of a Minister, when that Minister's conduct and performance of the duties of his office can be very fully discussed and debated. In many debates of this nature, although the House being in Committee a member is not actually debarred from speaking more than once, it is unlikely that, unless for special reason, a member will be called by the Chair to speak a second time, and there is in fact little difference between a debate of this kind in Committee of Supply and a debate in the House. The work of the Committee of Supply is dealt with more fully in the description of Financial Business on p. 67.

The Committee of Ways and Means is another financial committee somewhat similar in many ways to the Committee of Supply and like it is set up early in the session and continues till the end of the session. Its chief functions are (1) authorising taxes, and (2) authorising the issue and payment out of the Consolidated Fund, or Exchequer, of sums of money which are required to meet grants approved and made by the Committee of Supply. As this Committee authorises imposition of taxes whereby the Exchequer can obtain the money required to meet the demands sanctioned by the Committee of Supply, the Finance Bill which imposes the taxes for the year is founded, or based upon, a number of Resolutions in Committee of Ways and Means.

Committees to consider Money Resolutions are the Committees resulting from a decision of the House to

make certain special expenditure or from a Standing Order, which deals with the Resolutions required for the grant of money for some special expenditure the House desires to make, or for authorising clauses involving expenditure in bills in which such expenditure is subordinate and merely ancillary to the main purpose of the bill. These Committees do not seem to call for further remarks here. Other committees of the whole house simply means any committee of the whole house, other than those already mentioned, which may at any time be set up by the House for any purpose. The House of Lords does not require Committees such as those of Supply and Ways and Means connected with Finance: but otherwise it has very similar arrangements regarding Committees.

## 9

*Other Committees*

House of Commons or House of Lords Committees WHICH are not committees of the whole house are or may be of many and varied kinds as either House may of course set up a Committee at any time for any reason or purpose which may seem to the House to be good. All such Committees depend upon, and their duties and powers are given in, the terms of 'reference' decided on by the House, and they all have to report to the House on the conclusion of their task as to what they have done. But there are certain House of Commons Committees of this kind which should be mentioned, though it is not proposed to deal with them and their duties here at any length.

In the first place mention should be made of the Standing

Committees which are formed under Standing Orders: these Committees are for the purpose of relieving the work of the House by undertaking and dealing with the Committee stage of bills which have passed their second reading. One of them called usually the Scottish Grand Committee deals with public bills relating exclusively to Scotland, and is therefore constituted differently to the others: it consists mainly of all the members for Scottish constituencies with the addition of other members nominated by the Committee of Selection, approximately proportionate to the numerical strength of parties in the House. The Standing Committees are constituted by the Committee of Selection, each one consisting of a certain number of members approximately proportionate to the numerical strength of parties in the House, to which are added for the purpose of each bill referred to one of these Committees, certain additional members who are specially interested in or have special knowledge of the particular bill, and are members of the Committee only for the purposes of that bill. Thus the Standing Committees being so composed as to be 'micro-cosms of the House', are not very likely to take decisions calculated to be strongly unpopular with the House. For the purpose of each bill a Chairman of the Standing Committee to which it is referred is nominated from the panel of temporary chairmen by the Speaker.

There are Sessional Select Committees of the House of Commons which are set up every session under Standing Orders: one of them, the Public Accounts Committee, deals with Finance, and another, called the Standing Orders Committee, has to do only with certain private business matters, while a third, the Committee of Selection,



nominates the Standing Committees, and also nominates Committees for Private Bills, and deals with certain other matters relating to private business. There is also a similar Sessional Committee on Petitions.

Other Committees, whose functions are indicated by their names, are set up by the House of Commons every session, namely, the Estimates Committee, the Committee of Privileges, the Publication and Debates Report Committee, the Kitchen and Refreshment Rooms Committee, etc.

Committees which include those referred to above and others need further description. Select Committees are set up *ad hoc* by either House from time to time as required, sometimes for the purpose of considering a bill, or for the purpose of inquiry into any subject which the House desires to investigate or inquire into, or on which the House may desire to be more fully informed. All Select Committees are subject to certain rules regarding constitution and procedure which have to be strictly observed: they are given such powers in each case as the House considers necessary, usually powers to send for persons, papers and records, and when required, power to take evidence on oath and to hear Counsel, etc.

The work of a Select Committee on a bill, which is sometimes appointed when the nature of the bill makes it desirable, is not the ordinary Committee stage of the bill but an additional proceeding before the ordinary Committee stage; it reports on the bill either with or without amendment, before the bill is committed for the ordinary Committee stage: it is very useful in cases of bills which deal with matters on which special inquiry is advisable, and

is often a Joint Committee composed of members of both Houses, by arrangement between the Lords and the Commons. Any Select Committee may be a Joint Committee of this kind.

Select Committees of Inquiry may be of many and various kinds: for example, it may be a Committee to inquire into the conduct of certain persons or bodies of persons, whether members of the House or not, or it may be merely for investigation of a subject upon which it is thought that legislation may be desirable. In the former case it is a Committee which must be strictly judicial and careful in its work, and may well be of immense importance to individuals concerned as well as to the House. Select Committees being confined to members of the House (or in the case of Joint Committees to members of the two Houses) are sometimes not the best kind of body to investigate or deal with some special inquiry or investigation: in such cases the House may procure the setting up by a Minister of some Departmental Committee, membership of which is unrestricted, or the establishment by the Crown of a Royal Commission.

## CHAPTER IV

### FINANCE

#### I

#### *How a Tax is Imposed*

THE imposition of taxes is necessary to obtain money for expenses of Government. In ancient times the levying of taxes by the King was one of the worst methods of oppression. It was the resistance of the Commons to this oppression which resulted in the methods whereby Parliament gradually curtailed the power of the Crown, and so the House of Commons has always paid special attention to the levying or imposition of any tax upon subjects of the King or some of them, and as a result of many long and bitter struggles the House established certain principles for the protection of the people in the matter of taxes, and has ensured that no tax shall be levied without the consent of the House of Commons, or without special consideration.

No tax can be levied except by Act of Parliament, but that is by no means all: any Act, or any part of an Act, which in any way imposes a tax, must originate in the House of Commons, and no taxation proposal is entertained in the House of Commons without being previously considered and approved, after notice, by a committee of the whole house. As the tax requires an Act of Parliament, it requires the concurrence of the House of Lords, but as already mentioned, it must originate in the House of Commons. Very often a Bill originates in the House of Lords, which cannot be complete or fully effective unless

it imposes a small tax of some kind incidentally, such as a tax for paying some part at least of the cost or expense of administering the Act. For convenience therefore the copy of the bill as printed contains these taxing clauses or provisions in brackets or italics, or some other distinctive form of printing; such specially printed clauses or provisions are *not* part of the actual Bill; they are commonly known as 'blanks' and are only there as suggestions of what is wanted. If, therefore, the House of Commons thinks fit (as naturally it usually does) it inserts these specially printed clauses or provisions in the bill in the Committee stage as amendments, and such amendments are of course agreed to by the House of Lords. Another strict rule of the House of Commons respecting taxes is that no proposal for a tax can be made by a private member or otherwise than by the Government: to use more technical words, no proposal to levy a tax or to grant money to the Crown (i.e. the Government) can be entertained except upon the recommendation of the Crown.

Certain taxes for the year (i.e. the State Financial Year from 1 April to 31 March) are authorised and levied by the Finance Act for the year: that is the Act which is passed after what are called the Budget Resolutions; they are the resolutions in Committee of Ways and Means which have to be so passed before the bill imposing taxation can be passed or even entertained or considered by the House. The Budget and Finance Bill are more fully explained on pp. 64-65.

## 2

*The System of National Finance*

The business of the House of Commons in regard to finance is partly legislative and partly non-legislative: so this may be a convenient place for dealing with finance generally.

Keeping the accounts of the country, and looking after the nation's (i.e. the taxpayers') money, amounting to thousands of millions of pounds in a year, is no easy matter: and as those who have to do this work are in the position of looking after other people's money, they have great responsibility and their accounts have to be subject to careful and thorough examination, and to an elaborate system of checks and precautions. It therefore cannot be a matter of surprise if the system of national finance seems complicated and difficult to understand. Fortunately for us, owing to the thorough and careful methods adopted and to the ability and honesty of those who have to do the detail work, it is not necessary for the ordinary person to make himself fully acquainted with a system which it would take much time and hard work to understand. But the raising of revenue and the expenditure by the State of the nation's money is of such importance to all of us, and so vitally affects almost every political question, that some understanding of the main features of our financial system is essential. Moreover, an elementary knowledge of the subject is necessary to the understanding of much of the proceedings of the House of Commons.

In its broad principles the system of finance in the

country is not very difficult to understand. All revenue and Government money is paid into what is called *the Consolidated Fund* represented by an account in the Bank of England known as *the Exchequer Account*, or more briefly as 'the Exchequer', and all expenditure is provided for and met by payments from that account.

The Treasury is the Executive Government Department which operates and manages the affairs of the Account under the control of the House of Commons. The Minister mainly concerned and in charge of the Financial Affairs of the country is the Chancellor of the Exchequer, and his assistant, or Under-Minister, is called the Financial Secretary to the Treasury. The revenue, or receipts and assets of the Consolidated Fund, is mainly the produce of taxes, but there are other comparatively small sources of revenue, such as profits made by the Post Office, the income from Crown Lands, and so on; and as *all* the State's money is paid into the account there are from time to time moneys received in repayment of loans which have been made to other governments, and a variety of other small sums of different kinds: but the main source of the State's income—for practical purposes one may say the whole—other than Post Office profits and income from Crown Lands is taxes.

Income and expenditure are dealt with year by year, and the object aimed at is to 'balance the budget' in each year, or in other words to see that not more money is raised (that is, not more taxes imposed upon the people) than is necessary in order to meet the expenditure, and to prevent extravagant, wasteful or unjustified expenditure, resulting in a deficit requiring the raising of more money.

Here, perhaps, brief reference should be made to the National Debt. We need not go into the origin or some other details of it, but we must realise and accept the fact of its existence, and note its place in the country's finance. It is, of course, chiefly money which is owing to the holders of 'Consols' (the Consolidated National Debt) and other Government stocks representing money lent to and borrowed by the Government on which interest has to be paid at the fixed and agreed rate: the total amount of debt of this kind accordingly varies with the country's need to borrow and its repayments. In addition to this 'long term' debt as it is called, the Government always has outstanding what is called the 'short term' debt. In running such an immense financial business as the Government has to do, with money going out and coming in day by day, borrowing for brief terms in anticipation of receipts coming in, is proper and essential. It is done mainly by the issue of Treasury Bills or promises to repay, generally not by promising to pay interest, but by issuing the Treasury Bills at a discount, or in other words, promising to pay (say) £1,000 in three months' time, and getting the lender to pay down for that Bill as much as he will, or approximately £1,000, less the sum which he requires in respect of interest thereon for three months. This results in all the intricacies of the money market with which we are not concerned here.

The operations on the Exchequer Account by the Treasury are checked and accounts kept by an independent officer known as the Comptroller and Auditor General, who is an officer, not of the Government but of the House of Commons: he is removable from office only on an

address from both Houses of Parliament. In the ordinary way money is drawn from the Exchequer Account and issued by the Treasury, not in actual payment of items of expenditure but in the form of block payments or issues to the various Government departments who make the actual payments, and have to account for the money they receive.

The Paymaster-General, a member of the Executive Government, is the official cashier of the Government, who looks after the payment of moneys from the Exchequer to the various departments. This being mainly routine book-keeping work, the Paymaster-General himself has little or nothing to do as such, the work being carried out by his permanent department. As a member of the Government, therefore, his office is really a *sjnecure*: it may have no duties and be unpaid; but on the other hand, he may be appointed to this official post in order that as a member of the Government he may carry out other special work which may be entrusted to him by the Prime Minister, in which case he usually receives a salary like any other Minister.

The Government Financial Year is from 1 April to 31 March, and in every such year a 'Budget' is made out in which estimates are made of the expenditure which will have to be incurred during the year, and, on the other hand, estimates are made of the amounts which will be received during the year: then it is therefore that the taxes proposed to be levied during the year are set out, with estimates of the amounts expected to be yielded by the several taxes. Most of the taxes are continuous and go on year after year: but the income tax is only imposed for one year, being reimposed year after year. It is also customary that one



important and high-yielding indirect tax should be imposed year by year for one year only. For many years it was the tax on tea which was thus dealt with, but when some years ago the tea tax was abolished, it became necessary to select some other indirect tax (e.g. the sugar tax) to be imposed for one year only. In these cases the rate of tax for the year may be altered or varied, up or down, each year; but other taxes, such as death duties, though continuing from year to year, can be, and often are, raised or lowered. It is in the Budget that the rate for the year of income tax and tea tax is fixed, and changes in the rate of any continuing tax are also settled, and in like manner the Budget proposes new taxes or discontinues an existing tax. 'Budget Day', when the Chancellor of the Exchequer produces or 'opens' his Budget in the House of Commons, is therefore a great day.

The Budget in the first place sets out the accounts of the immediately preceding year, showing exactly what has been received and how, and what has been spent and how: in the result the Budget shows either a surplus or a deficit on the accounts for the preceding year.

Then it sets out, item by item, the expenditure which is expected to have to be made during the coming year, and against that, the income expected to be received from the various sources including the taxes proposed, which may be the same as in the preceding year, or may be at new or different rates, or may include entirely new taxes. One thing should be specially noted here, namely, the truly remarkable way in which the Treasury officials are able to forecast or estimate the probable income from various sources, as well as the probable expenditure.

As a result of the Budget, and in pursuance thereof, a Finance Bill has to be introduced and passed into law, the main object of the Bill being the imposition of the taxes for the year proposed in the Budget. As has already been stated, no Act of Parliament can be passed to levy taxes unless the tax proposals have been considered and authorised by Resolutions of the House in Committee. Therefore the actual form of the business of the Budget is the consideration in Committee of Ways and Means, of a number of Resolutions authorising the levying of the various taxes. The whole of the important Budget proceedings therefore are taken not in the House but in Committee of Ways and Means; the Chancellor of the Exchequer makes a long speech, explaining and commenting upon the accounts set out in the Budget, reviewing the general financial condition of the country, and explaining or justifying the means by which he proposes to raise the necessary revenue for the year, and ends by moving a considerable number of what are called 'Budget Resolutions', that is, Resolutions of the Committee of Ways and Means authorising the imposition of the various taxes.

Now here attention should be directed to a curious difficulty which must be explained, together with the way in which it is dealt with. It will be realised that the Budget proposals regarding taxes have to be kept very secret until the last moment to avoid their being evaded: for example, if people got to know that the tax on a particular article, tea, sugar, beer, tobacco or anything else, was going to be raised they would at once rush to buy large quantities of the article in question before it became subject to the new tax: therefore the taxes proposed to be levied are known

to very few people indeed (all of whom may be relied upon not to make improper use of their knowledge) until they are actually announced in the Committee of Ways and Means in the House of Commons. But when the taxation proposals are then necessarily made public, a gap of several weeks must occur before the taxes are actually imposed by Act of Parliament, during which time large dealings could take place to the great detriment of the revenue. In order to avoid this, Parliament in the year 1913 passed the 'Provisional Collection of Taxes Act'. Under this Act the taxes are made provisionally payable at once directly they are announced, if the resolution authorising the tax direct that this Act shall apply, and if the other requirements of the Act are complied with.

Now we should consider the very important work of the Committee of Supply. The importance of this Committee (which is a committee of the whole house, or in other words the House in Committee) lies in the fact that it is Resolutions of this Committee which approve issues from, that is payments out of, the National Exchequer. The various civil departments and the Admiralty, War Office, and Air Ministry prepare and submit estimates of the money they will require in the course of the year for their various items of expenditure—these estimates are considered and discussed by the Committee, which, if it approves the estimates, passes Resolutions that a sum of so much be granted to His Majesty to defray the charge which will come in course of payment for the year ending 31 March 19.. for the particular service specified. It is the necessity for obtaining supply, i.e. money from the Exchequer, which gives the House of Commons its great

power to control expenditure, and its ultimate control over the Executive; for by withholding supply, that is refusing to grant money, it can make it impossible for the Government to carry on. The discussion of different estimates provides opportunities for discussing and criticising the administration of affairs covered by the estimates: the provision of the money for the special services specified in each estimate means that (subject to certain slight qualifications) the money cannot be used for any purpose other than that specified. As no money can be granted except at the request of the Crown, amendments to these Resolutions in Supply cannot be moved to increase the amount, but any member can move an amendment to reduce the amount, and it is by such amendments to reduce the amount that dissatisfaction with the policy or administration of the particular department concerned can be expressed. For reasons which will be clear from what has already been said, the defeat of the Government on a major resolution in supply, amounting to a refusal to grant the money required, is a very serious matter, and in the ordinary way must almost inevitably involve the resignation of the Government. In addition to the original estimates, for which grants are requested, there may be, and often are, supplementary estimates, and there are also 'votes on account' and may be 'votes of credit' given on special occasions. In earlier times, when 'Supply' was one of the chief weapons of the House of Commons in its struggles with the Crown, long debates used to take place on the motion for going into Committee of Supply, in pursuance of the claim of the Commons to discuss grievances before granting supplies. This does not occur now as the House

goes into Committee of Supply automatically without debate when Supply appears on the Order Paper: but a remnant of the old practice of grievances before Supply is still preserved, as on the first occasion of going into Committee of Supply on the Civil Estimates, and the first occasion of doing so on each of the fighting services estimates (Navy, Army and Air Force), a motion has to be moved and is debatable 'that Mr Speaker do now leave the Chair'. These motions seem to be unnecessary, but are not without their use: they provide the Minister concerned with an opportunity of giving a general statement of the work of his department, and give members an opportunity of discussing it: amendments to the motion can be moved, but as there is great competition for doing this a ballot is held early in the session to settle what members shall have priority in doing so on each of the four occasions: the member who is successful in drawing an early place gives notice that on the particular day he will call attention to a certain subject connected with the department concerned and move a resolution: usually only one such amendment is called on each of the four days, and after it has been moved and sufficiently debated it is generally withdrawn.

Not less than twenty 'allotted' days in each session (there may be additional ones) have to be given up to the business of Supply, and on these allotted days no business other than Supply may be taken. As in each session there are between 100 and 200 'Votes', or requests for Supply to be dealt with, only comparatively few of them can be debated: therefore Standing Orders prescribe a 'guillotine' procedure on the last two allotted days in order to complete the Votes: on the last but one of the allotted days, the

Chairman has to put the question in Committee in regard to all the outstanding Votes, at 10 p.m., and on the last allotted day the Speaker in like manner has to put the question in the House on Report, in regard to all outstanding Votes: thus they have to be dealt with without debate, but members can divide upon, and vote against, any such estimates as they may wish. As to which Votes are debated during the session, this is decided technically by the Government, but in practice they put down for debate on each allotted day such Estimates as may be desired by the representatives of the opposition party or parties, the opposition being regarded as having the right to choose which particular Estimates they desire to discuss. There are many other details and rules relating to the Estimates and to the business of Supply which are too intricate and would take too much time to be gone into here, but enough has been said to explain the main work of the Committee of Supply, and the usual proceedings of the Committee.

The other important financial committee of the whole house, which like the Committee of Supply is set up at the beginning of the session and remains in existence till the end of the session, is the Committee of Ways and Means, which has already been mentioned (see pp. 66, 67). One of the chief functions of this Committee is to investigate and approve the ways and means whereby the money which is needed may be obtained—or in other words to sanction the imposition of taxes to produce the revenue required.

From what has been said, it will be realised that the management of the country's finance rests not so much with Parliament as a whole, but rather with the House of Commons: this fact is indeed one of the important features

of the Constitution. It is but reasonable and proper that this should be so, as the House of Commons represents the people of the country who provide the money. It is the House of Commons which in course of long struggles established as against the Crown the right of a free people to decide the amount of money to be provided by them for the conduct of their own Government and for the provision of such national services as they should approve; so they claimed, and in course of time obtained, control over how the money provided by them should be expended. These struggles with the Crown were followed by conflicts between the two Houses which culminated in the Parliament Act which practically deprived the House of Lords of any power effectively to interfere with taxation or financial affairs.

The House of Lords—at least in theory—still has a right to criticise ‘a money bill’, but such a bill, if not passed by the Lords without amendment, can become an Act of Parliament without being consented to by the House of Lords unless the House of Commons direct to the contrary: but so far there has been no case since the passing of the Parliament Act in which the House of Lords has attempted to interfere in any way with a money bill sent up to them by the House of Commons.

Whether a bill is a ‘money bill’ within the meaning of the Act is determined by the Speaker of the House of Commons.

CHAPTER V  
POINTS OF PARLIAMENTARY  
PROCEDURE

I

*Conduct of Debate*

A MEMBER wishing to speak rises in his place, and must 'catch the Speaker's eye' and be called by him, and he can only speak when he has been so called by the Speaker, who calls him by name. The Speaker of course calls first the member who is to move a motion. He then (if necessary) calls a member to second the motion, and from then onwards it rests entirely with the Speaker (or Chairman) as to whom he calls if, as usually happens, a number of members rise, wishing to speak. After the motion has been moved (and seconded if necessary) the Speaker puts the question to the House from the Chair, then he calls usually the leader of the opposition, or the leading opponent of the motion. For the rest of the debate he selects and calls on members to speak as he thinks right in the interests of a good debate.

A member speaking has to address his speech, not to the members or to the House as a whole, but to the Speaker or Chairman; he may only speak in English, and is not permitted to read his speech, but a very wide interpretation is put upon the rule that he may refer to notes! No member is permitted to refer to another member by name, the usual method being to refer to him as the honourable member for the constituency he represents. A member is expected to be reasonably polite in his speeches when referring to



other members: but it is 'out of order' to use what is called unparliamentary language, and a long list could be compiled of epithets or adjectives which may and which may not be applied to other members. It is for the Speaker or Chairman to preserve order in debate, and it is for him to decide what it is or is not permissible to say, or what is or is not relevant to the question under discussion; a member who disregards or refuses to comply with the Speaker's or Chairman's directions may be ordered by him to resume his seat, or to withdraw from the Chamber for the remainder of the sitting, but if he refuses to do this, or repeatedly disregards the orders of the Chair, or if he is guilty of gross misbehaviour, he is 'named' by the Speaker, and thereupon the leader of the House or senior member of the Government present moves 'that he be suspended from the service of the House'. If this happens when the House is in Committee, the Chairman, having named a member, leaves the Chair (as it is only the House which can suspend), the House resumes and the Chairman reports to the House, and then the suspension proceeds. The length of time for which a suspension lasts is fixed by Standing Orders and usually lasts for five sitting days (the equivalent of a week) for a first offence, for twenty sitting days (say four weeks) for a second, and for a subsequent offence until such date as the House may terminate the suspension.

It is unnecessary to set out the rules governing debate, but a few should be stated and perhaps explained; it is not permissible to allude to debates in the other House; there are some exceptions to this rule which is not interpreted very strictly and a member is permitted to refer to a statement in the other House as to Government policy or

intentions or actions. The chief reason for the rule is to prevent criticisms of members of the other House or disputes or recriminations between members of the two Houses which would clearly be undesirable or inconvenient, and it is in this spirit that the rule is enforced. A member is not permitted to reflect upon the King or a Governor representing him, such as the Viceroy of India, nor to use the King's name for purposes of influencing the debate. He may not criticise the Parliament of one of the Dominions, nor the Government of a friendly power. Nor may he criticise or attack any decision which may have been made during the session by the House—unless he is doing so in support of a definite proposal to rescind or alter such a decision, nor refer to matters which are the subject of pending judicial proceedings. He may not attack or criticise any of His Majesty's Judges, or certain other holders of positions of authority, unless upon a substantive motion for that express purpose. Lastly there is a wide general rule that he must not so act or speak as to obstruct the business of the House. 'Obstruction' which is not permitted is a little difficult to define, but this is a matter in every case for decision by the Speaker or Chairman, and it includes 'tedious repetition' or 'persistent irrelevance'.

So long as a member speaking keeps within the rules of order, he is entitled to be heard and to continue speaking for as long as he likes. Interruptions or interjections by other members are allowed so long as they are orderly and brief: if a member desires to interrupt the one who is speaking, otherwise than quite briefly, he may do so if, but only if, the member speaking gives way and allows him to do so.

In the event of 'grave disorder' arising in the House, the Speaker may adjourn the House or suspend the sitting for a time.

## 2

*Questions*

Questions, i.e. questions to Ministers, form an interesting and indeed important feature of the daily sittings of the House of Commons: they are taken immediately after Private Business, which occupies only a few minutes after Prayers, and may go on till 3.45 p.m., so that approximately an hour is given up to them. Any member is allowed to give notice of, and address, questions to Ministers or members of the Government or to another member of the House who may be responsible for some other business of the House, such as the Chairman of the Kitchen Committee or the member representing the Ecclesiastical Commissioners. A member wishing to ask a question must give two days' notice thereof by handing it in to one of the clerks at the table: if he wishes for an oral reply, he must 'star' the question, i.e. mark it with an asterisk: if he does not do so, the answer is given to him in writing, and both question and answer are printed in the official Reports. No member is permitted to ask more than three starred questions for oral answer on any one day. Questions which may be asked are subject to a number of rules: they must, for example, be genuine questions and on a subject which is within the duties or administrative affairs of the Minister or his department, and must not transgress the ordinary rules of constitutional custom or parliamentary propriety and etiquette. Moreover, if a question contains

any allegation of fact, the member must accept responsibility for such allegation and is expected to have assured himself of its accuracy. All questions handed in to the table are therefore carefully considered by the clerks on behalf of the Speaker, who can refuse to allow a question of which he does not approve. The clerks therefore communicate with members who hand in questions as they think necessary and get the questions revised or altered as may be considered advisable, or they refuse to accept them if there is good reason to do so, referring important or difficult or doubtful cases to the Speaker himself. When due notice of a question has been given and accepted by the table, it is placed on the Order Paper for the day named by the member, under his name, setting out the Minister to whom it is addressed: but to lessen the burden on Ministers, certain Ministers are named, and in a stated order of priority, for certain days of the week on which they will be in attendance to reply to questions. The member asking a question must therefore see that he puts it down for one of the days when the Minister concerned will be present.

The number of starred questions appearing on the Order Paper on any ordinary day is usually slightly under 100, but may be 120 or more. On many days, therefore, a certain number are not reached within the time allowed—between seventy and ninety are usually disposed of—so those not reached are answered in writing, and the question and answer appear in the official Reports as in the case of questions not for oral reply. A member is often anxious for an oral reply, and therefore if he sees his question is not likely to be reached, he goes to the clerk at the table and postpones his question till a future day, as he is permitted

to do provided he does so soon enough before 3.45 p.m., the end of question time.

When Questions are taken, the Speaker calls the member asking them, by name, in the order in which the questions stand on the paper, and the member then asks his question, number so-and-so on the paper, of the Minister to whom it is addressed, but he does not read out the question. If the reply is incomplete, insufficient or otherwise unsatisfactory in the opinion of the questioner or other members, the questioner or any other member may rise in his place and ask the Minister one, or more, 'supplementary' question or questions: here is where the Speaker comes in, and sometimes has a busy and difficult time, for it rests with him to decide whether or not a supplementary question is a permissible one, and how many shall be allowed: if he were not careful and firm in the discharge of this duty, some dozen or even less questions with their supplementaries might occupy the whole of question time.

Questions are asked for many and varied reasons: they may be asked only and genuinely for obtaining information (in which case an unstarred question may be all that is needed), but starred questions are as often as not asked for the express purpose of being followed up with supplementaries and with the intention of criticising some action by the Minister or his department, or putting him in some difficulty. Many are put with a view to drawing attention to some alleged hardship or grievance and obtaining some remedy or removal thereof, and no doubt in a large number of questions the true reason is a desire to obtain popularity or notoriety for some cause or object which the member favours, or even perhaps for himself! It will be realised,

therefore, that supplementary questions have to be subject to many rules as to what is or is not proper, or is or is not in order, and the Speaker has to be very wide awake and is sometimes kept very busy during question time!

In theory at any rate a Minister is not bound to answer any question if he considers that to do so is not in the public interest or if he can give some other good reason for refusal, and in practice he is quite free regarding what sort of answer he gives. If a member considers he has good reason for being dissatisfied with the Minister's reply, he can give notice that owing to the unsatisfactory nature of the reply he 'will call attention to the matter on the motion for adjournment at the earliest convenient opportunity', and thus he may be able to discuss the matter rather more fully, as is explained later in dealing with motions for the adjournment.

Though no member is permitted to ask more than three starred questions on any one day, there is no limit to the number of unstarred questions a member may ask—except the patience of the Minister! He is not bound to answer within any limited time, and so if he is asked too many he may take a long time to reply.

Questions sometimes finish before 3.45 p.m.: fairly often this happens owing to members not being present when their questions are called. When this happens, the Speaker goes through 'a second call', and calls again in order all the questions on the paper which have not been disposed of—either because the member was not present or, as sometimes happens, because there was no Minister present to reply; but he omits any which have been postponed or withdrawn. On the second call (but not on the

first), a member's question may be asked for him, if he is absent, by another member.

A question not printed on the Order Paper may be asked orally at 3.45 p.m. or such earlier time as questions end, by private notice to the Speaker, and to the Minister to whom it is addressed, if the Speaker allows: but the Speaker only allows a 'question by private notice' of this kind if he thinks it of sufficient importance.

There is no similar system of Questions in the House of Lords. A member of that House can put on the Order Paper a question to the Government: he may mark it with an asterisk which means that he only wants a reply to the question; if, on the other hand, it is on a subject which he wishes should be debated, he accompanies it with a 'motion for papers', in which case he must find a day on which there is time for the debate.

### 3

#### *Quorum and Counts*

Forty members (including the Speaker) form a quorum of the House, and the Speaker has to be satisfied when he takes the Chair at the opening of the daily session that a quorum is present, but he has no responsibility for seeing that this is so after he has once taken the Chair.

During what is regarded as the dinner-hour, between 8.15 p.m. to 9.15 p.m., no question of a quorum being present can be raised, or, in other words, there can be no 'count of the House'. Moreover, the House cannot be counted out before 4 p.m. (or 1 p.m. on Fridays). Subject to this, any member present in the House can at any time

'call attention to the fact that less than forty members are present', and thereupon a count takes place, and if a quorum is not present within two minutes the House stands adjourned till the next sitting day; if, on the other hand, forty members are found to be present before the two minutes has expired, business is resumed and continued as before. When a count thus takes place as a result of attention being called to the fact, or alleged fact, that there are not forty members present, the Speaker, rising in his Chair, states that his attention has been called to this fact, and orders strangers to withdraw, and the Division Bells then ring throughout the precincts of the House. If, within the two minutes allowed, sufficient members come into the House or within sight of the Speaker, he makes known the fact by counting the last few figures up to forty.

When attention is drawn to the alleged fact that forty members are not present, the Speaker refuses to take a count if he is reasonably satisfied that forty members are present, or were so within a short time previously. When, therefore, a count has been taken, the Speaker refuses to take a count again within a reasonable time of about one hour: moreover, if a count is called shortly after a division has taken place and has shown that more than forty members took part in the division, the Speaker refuses to take a count.

The procedure for counting the House in Committee is exactly the same, except that if a quorum is not present the Chairman, leaving the Chair, reports to the House and it is the House which then adjourns.



## 4

*Motions to Adjourn*

No debates or discussions can take place in the House or in committee of the whole house, nor indeed can any speeches of any kind be made (other than statements made by Ministers or by other members with the permission of the Speaker), except on 'question put'; in other words, there must be a proposal before the House to which a member speaks, and his remarks must be relevant to the questions before the House. But, by a convenient practice, members are permitted to talk on practically any subject at all when the question before the House is 'that this House do now adjourn', except in the case of such a motion being what is known as a Dilatory Motion, which will be more fully explained later. When, therefore, the House finishes its business for the day before the time when, under Standing Orders, it has to rise, a motion to adjourn is moved by or on behalf of the Leader of the House or the Government. A member can then discuss (subject to the permission of the Speaker) any subject that he wishes so long as it does not involve legislation. In practice, a member who wishes to draw attention to some particular fact or state of affairs lets the Speaker know that he desires to speak on the adjournment at the next convenient opportunity. Usually, the time available for discussion or debate on the adjournment is only between 11 p.m., when opposed business is interrupted, and 11.30 p.m., when the House has to rise: but it does occasionally happen that all business of the day on the Order Paper is completed before

11 o'clock, and then the fortunate member who has, as it is called 'obtained the adjournment' and arranged with the Speaker to be called, has got an extra long time in which the matter he desires to raise can be debated.

But in addition to such debates on the adjournment, it is the common practice for the Government to move the adjournment of the House at the very commencement of business or at any time afterwards, for the purpose of enabling a debate to take place on some special matter when there is no particular resolution of the House required or desired. Often, therefore, lengthy and important debates take place on such a motion for adjournment in regard to the policy of the Government or about the happening and effect of any events of importance which have just taken place.

There is again another form of 'debate on the adjournment', namely, a motion for adjournment on 'a definite matter of public importance'. Arrangements for moving such a motion for the adjournment of the House in this way can only be made after questions have been disposed of and before the Orders of the Day or notices of motion on the Order Paper have been entered upon. In order to get such a motion for adjournment taken, the member proposing to move the adjournment has to have the support of not less than forty members, who indicate their support by rising in their places when the member moves his motion. Such motions are not accepted by the Speaker unless he is satisfied that the reasons for the motion are strictly definite and urgent and of public importance. But if the Speaker considers that these considerations have been met and the motion is supported by the necessary forty members and

agreed to by the House, the motion for adjournment is moved at a quarter past eight on that day, the motion standing over until that time.

If the motion is supported by less than forty members, but by not less than ten, the House (if the Speaker accepts the motion) decides on a division, taken immediately without debate, whether such motion shall be made or not.

At any time during a debate in the House, a member can rise to move 'that the House do now adjourn', or 'that the debate be adjourned'. These motions are of the kind called 'Dilatory Motions' because they are so often moved for purposes of delay or obstruction, and it is entirely within the discretion of the Speaker or Chairman whether he accepts such a motion or not. He is expressly authorised to decline to accept the motion if he regards it as (in a very wide sense) 'an abuse of the rules of the House'; a further midway course is open to him which he can take if he chooses, namely, to put such a motion to the House to be decided forthwith without debate. But if he accepts such a motion and allows it to be debated, all speeches on the motion have to be strictly relevant to the reasons alleged for making the adjournment desirable or convenient.

In committee of the whole house, similar 'Dilatory Motions' can be moved, with the difference, in consequence of the House being in Committee, that the form of the motion is 'that the Chairman do report progress and ask leave to sit again', or 'that the Chairman do leave the Chair'. Motions of this kind are sometimes moved very conveniently and properly in the course of a debate, either in the House or in Committee, not for dilatory purposes

but for the purpose of raising some point due to a sudden change in the position, or for the purpose of obtaining from the Government some information or explanation as to the future conduct of the debate, or as to how long they propose to continue without adjourning, or for some purpose of that kind. If a motion of this kind is moved and debated, it cannot be moved again in course of the same debate before some intermediate proceeding has taken place. When, therefore, a motion that the House do now adjourn has been moved and debated and a member desires to do something of the same kind again, he moves the alternative form of motion, 'that the debate be now adjourned'. Any member who moves or seconds such a motion for adjournment thereby exhausts his right of speaking on the question before the House.

## 5

*Various Machinery for Preventing Obstruction  
or Expediting Business*

The Closure, or as it has been nicknamed 'the Gag', is a device for overcoming obstruction or bringing to a close a debate which is considered to have gone on long enough. The main provision of the Standing Orders on the subject is that at any time after a question has been proposed, any member may rise and move 'that the question be now put'. It is in the discretion of the Speaker (or Chairman) whether he accepts such a motion or not, but if he accepts it, as he must do unless he considers it an abuse of the rules of the House or an infringement of the rights of the minority, he has to put the motion forthwith, and the House has to decide upon it without amendment or debate. If the House

passes such closure motion, the original question has then to be put to the House for decision without any further debate. But a closure motion cannot be carried unless the number voting in favour of it is at least one hundred: so it sometimes happens that the result of a division on a closure motion may be that 'the Ayes are 99 and the Noes some less number, so the Noes have it', the Noes succeeding although in a minority because those voting in the majority are under 100. Closure as thus described is a simple matter: but there are certain further forms of Closure, and certain points arising in applying the Closure, which require further explanation. Chief of these is what is sometimes called the Contingent Closure: if the ordinary simple closure motion has been carried, and in pursuance thereof the closed question (i.e. the question under consideration when the closure was moved) has been decided, a further closure may, if the Speaker consents, be claimed in order at once to bring to an immediate decision any question or questions already put from the Chair. Such contingent closure, it should be noted, does not entail a further closure motion being put, but is claimed as (subject to the Speaker's approval) a right following on the original closure resolution.

There are also special forms of closure resolutions which can be moved (with the Speaker's consent) when a clause is under consideration in Committee or on Report which may bring to immediate decision the whole clause or some specified part thereof.

It should be noted too that there are special provisions (too complex to be fully explained here) enabling closure proceedings, taken at the moment for interruption of

business, to extend to enabling then-current business to be completely carried out, notwithstanding that the time for interruption of business has been reached.

Another important power which is vested in the Speaker and in the Chairman is that of selecting what amendments shall or shall not be called. Instituted to save time, or to procure that the time available shall be used to the best advantage, it has been found so generally useful and advantageous that great use is made of it, with general approval. This duty gives great power to, and throws much responsibility on, the Speaker and Chairman, and has to be exercised with great care and discretion, especially as the Speaker or Chairman is not obliged to give any reason for his decision: in consequence it can only be exercised by the Speaker, or in Committee by the Chairman of Ways and Means or the Deputy Chairman, and not by any temporary chairman. But drastic as the power is, it would appear to be almost a necessity, and it is rarely, if ever, that any serious objection has been raised to its exercise. It is especially useful and extensively exercised in committees on bills when amendments put on the Order Paper are very numerous. So much is this the case that although the Chairman of a Standing Committee did not have this power it was often found necessary for the House by special order to give him this power, and recently, i.e. since 1934, it has been given to all Chairmen of Standing Committees. It must be understood that this has nothing to do with whether an amendment is in order or not, as the Speaker or Chairman is entitled to refuse an amendment in spite of its being perfectly and beyond question in order.

In selecting amendments in Committee on a bill, the

Chairman refuses to select amendments for many and varied reasons: he does so if he regards an amendment as frivolous, or ineffective, or meaningless, or of trifling or no importance; more often still there may be a number of different amendments, all for the same or a similar purpose, in which case he will select only the one he thinks best, and in the interests of good drafting and good legislation he may refuse to select an amendment unless it is revised or altered as he considers right. In practice what happens is that the Chairman, with the assistance of the clerks and the draftsman of the bill, goes carefully through the amendments, marks those he selects, and strikes out such as are out of order or not selected by him, and on inquiry by the whips or other members tells them which he proposes to take: then often on special request he will reconsider certain amendments and agree to select ones to which special importance is attached. He is expressly empowered by the Standing Orders to call upon any member who has given notice of an amendment to give such explanation of it as will enable him to form a judgement upon it.

Another device for preventing waste of time is what is known as the 'guillotine', or a resolution for allocation of time. When Government has a long and important bill which is highly contentious and may be expected to be opposed and obstructed in every legitimate way (and there are many legitimate methods of obstructing or delaying the passing of a bill), they may be driven to take some special steps to force the bill through, such as getting the House to agree to a resolution setting out a time-table for passing different stages, or parts of different stages, of a bill by certain times and dates, thus cutting down, or

entirely cutting out, discussion on portions of the bill. The only way of really explaining this device is by setting out one of such 'guillotine' resolutions, and as they are necessarily lengthy, this is done in an 'appendix' hereto. This form of procedure is not popular either with Governments or Oppositions: it is bad from a parliamentary point of view, and tends to ill-considered legislation: it has been less frequently resorted to recently, and if, as may well be the case in the near future, there is reason for resorting to it, or something like it, again, it is much to be hoped that some less objectionable form of resolution may be devised or some alternative form of procedure invented.

The 'guillotine' was invented (and with more excuse then) before the power of selection of amendments was given to the Chair, and that power has somewhat lessened the need for resort to the 'guillotine'. In the present Parliament (1946) the 'guillotine' resolution as previously known and used has in practice been superseded in the Committee stage of bills by a resolution simply allotting a specified limited time to the Committee stage, a method not free from the chief objections to the older method.

## 6

### *Strangers and Secret Sittings*

As is well known, strangers (i.e. persons not members of the House of Commons) are admitted to certain galleries of the House; but by ancient custom and orders of both Houses, strangers were supposed not to be admitted while the House was sitting, and their presence in the galleries is therefore entirely a matter of sufferance. At any time any



member of the House can 'spy strangers' or call the attention of the Speaker to the fact that 'strangers are present'. If he does so, the Speaker has to put the question that strangers do withdraw or he can so direct without putting any question to the House. This method of turning strangers out of the House was sometimes adopted in comparatively recent times by members who had no particular wish to exclude strangers but desired to be obstructive or to cause trouble; but this withdrawal of strangers is usually extremely inconvenient and was found to be so generally by those who so took steps to 'spy strangers', for it is very literally and strictly enforced and means, among other things, that no reporters can be present; therefore, it was very seldom adopted. But in the War of 1914-18, and much more frequently during the earlier years of the War of 1939-45, it was considered by the House to be both necessary and desirable that the House should sit in private, or in what has come to be officially known as 'secret session'. This is done by 'spying strangers' and then the Leader of the House, or other member of the Government, moving that the House do go into secret session, either for the remainder of the day or otherwise, as may be desired. Any breach of secrecy of a secret session is regarded as a very serious offence against the privileges of the House, and a very strict code to enforce this has been established recently by custom and by many proceedings in the House in regard thereto.

## 7

*Public Petitions*

Petitions, regarding some matter of policy, or for or against some particular course of action, are often sent to the House of Commons, or sometimes but less frequently to the House of Lords. The right to petition the Crown and Parliament for the redress of grievances is one of the fundamental principles of the Constitution. But in these times it is uncommon that a petition is of a kind which needs to be discussed or debated in the House, usually they refer to some subject which actually is, or is about to be, before the House for consideration; more often than not, they are probably prepared for propaganda purposes, and are got up more for the purpose of interesting and drawing the attention of persons asked to sign to the subject, than in the expectation or hope that the House will be materially influenced thereby. There is a set of rules regarding Petitions to the House which can at any time be obtained from the Vote Office in the House, which should always be carefully considered by intending petitioners, and in the case of petitions of such a nature as to require special consideration or treatment the member or members concerned to present them should consult the authorities. The Corporation of the City of London has the special privilege of presenting petitions by its sheriffs at the Bar of the House, and so had (and possibly still has) Dublin by its Lord Mayor: with these exceptions, a petition must be presented by a member, and it is regarded as his duty to present a petition if asked to do so by a constituent,

provided that the petition is in order. The form of the ordinary petition is first that it is specifically addressed to the House of Commons: it then sets out a description or designation of who the petitioners are, and any needful or proper statements of fact or alleged facts, following which comes the 'prayer' or actual petition. It may be on any suitable paper or parchment, and may consist of any number of separate sheets of signatures provided that the actual prayer is correctly repeated and set out at the head of every such sheet: the actual petition must be written by hand on the first sheet, but the copy of the prayer at the head of following sheets may be printed or typed. The language must be temperate and respectful, and it may not refer to any debate in Parliament nor to any motion on the Order Paper of the House.

If a member desiring to present a petition finds that it is in order and complies with the rules, he may present it informally by merely placing it in a bag, hanging behind the Speaker's Chair for the purpose. If he desires to do it with more formality and publicity, he gives notice to the Speaker, and is then called for the purpose immediately after Private Business. He thereupon announces his desire to present the petition, reading the actual prayer, describing who the petitioners are, and the number of the signatures, and then deposits the petition in the bag, but in such cases it often happens that the petition with all the signatures is very bulky, and made up of several bundles, in which case he can, by asking the Serjeant-at-Arms, obtain assistance from some of the messengers who carry the bundles to the table or to the back of the Chair as may be directed.

Petitions thus presented are, unless found to be not in order, acknowledged by an entry of receipt in the Votes and Proceedings and stand referred to the Committee on Public Petitions: this is a Committee of members always appointed at the beginning of the session: the Committee issues reports from time to time as necessary, which classify and analyse all petitions referred to it during the period covered by the report, giving briefly the subject of each petition, the number of signatures thereto, and such further information (if any) as it thinks necessary. The Committee can, if it thinks right, order the petition to be printed and may have it circulated to members.

This right of petitioning is theoretically, and may sometimes be in practice, very important: but the number of cases of practical importance has been much reduced by the custom and system of Questions, and of raising matters on motions for the adjournment.

Petitions to the House of Lords are dealt with in a very similar way, but it is to the House of Commons, as the representative House of the people, that petitions are more often made.

## 8

### *A Member taking his Seat, his Salary, etc.*

When a man (or woman) has been elected a member of the House of Commons (whether at a general election or a by-election), the next thing he has to do is 'to take his seat' as a member of the House: the fact of his having been elected in the case of a general election is proved for him, without any trouble on his part, through the returns which have to be made by the returning officers. But if he has been returned at a by-election he must obtain and take

with him a certificate of his return from the Clerk of the Crown, to whom the returning officers make their returns: he also has, under a Resolution of the House passed in 1658 and still in force, to be 'introduced' by two members who walk up with him from the bar of the House to the table, but after a general election there is no introduction, members elected just going in to seats in the House when it meets after the election. When 'taking his seat' a member has to take the oath 'to be faithful and bear true allegiance to the King, his heirs and successors according to law', and to sign the roll of members technically known as the Test Roll. The oath is taken and the roll signed at the table of the House with the Speaker in the Chair. After a general election the Speaker first takes the oath and signs the roll and then he takes the Speaker's Chair and other members take the oath, and sign the roll: if elected at a by-election the member takes the oath and signs the roll at the table when he has been brought up there by his introducers. Then, having done this (and not till then), he is a full member of the House of Commons and his pay (until recently £600 per annum but now increased to £1000) begins from that date, but until then he cannot draw his pay, nor can he vote or sit in the House or claim any of the rights or privileges of a member—unless it be the right to have no hindrance put in the way of his going to the House for the purpose. His salary, like every other salary, is subject to income tax, but with the same right to deduct necessary expenses as in all other such cases. If and when he receives any other remuneration as a Minister, or an officer of the House, he cannot draw his member's salary also. Having once become a member he cannot cease to be so by resigning, he can only vacate his

seat (until the Parliament is dissolved) by doing or suffering something which makes him disqualified to be a member. He is disqualified if he becomes bankrupt, six months after adjudication as such, unless in the meanwhile the adjudication is annulled, or he obtains his discharge with a certificate that his bankruptcy was not caused by misconduct, so also if he is put under care as a lunatic and does not recover within six months, or if he is convicted as a felon. (If he is convicted and sentenced for a serious misdemeanour which is not a felony he does not automatically cease to be a member, but is probably expelled, as was done in the case of Horatio Bottomley in 1922.) Clergy of the Church of England<sup>r</sup> and Ministers of the Church of Scotland are disqualified for membership, and so are Roman Catholic Priests. But Ministers or Clergy of other churches or denominations are not so disqualified. English Peers and also Scottish Peers, whether representative Scottish Peers with seats in the House of Lords or not, are disqualified, but not Irish Peers, except in the case of representative Irish Peers; recent examples of Irish Peers sitting as elected members of the House of Commons are Earl Winterton and Lord Fermoy. But the chief disqualification and the one which is made use of by a member for the purpose of giving up his seat is the acceptance or holding of an Office of Profit under the Crown. There are necessarily a number of exceptions to this rule of disqualification and it is essential that most if not all the Ministers or members of the Executive Government should be members of one House or the other, and that most of the principal ones should be in the House of Commons. The whole of the law regarding disqualification by reason

of the holding of office under the Crown is full of doubts and inconsistencies and in a state of absolute chaos: a select Committee investigated it and issued a report upon it in October 1941 and made a number of recommendations which have not yet been carried out. But the way in which this disqualification is used to enable a member to vacate his seat is curious and interesting. If a member wishes to retire from the House and give up his seat he 'applies for the Chiltern Hundreds' which means that he asks to be appointed to the office of Steward of the Chiltern Hundreds, a copyhold manor which belonged to the Crown: this request is for practical purposes never refused, and the member who so applies is appointed Steward of the Manor, or of the Manor of Northstead which also belongs to the Crown and is made use of in the same way. Originally no doubt these Stewardships were a source of profit owing to certain fees being payable to the Steward of the Manor. But for very many generations these Stewardships have had neither duties nor profits attached to them, the offices have in fact long been nothing more than fictions: but so long as acceptance by a member resulted in his vacating his seat they were very useful fictions, and consequently they have been carefully preserved. The Law of Property Act 1925, often called the Birkenhead Act, provided for the complete abolition in course of a few years of all copyholds, with the result that as they were abolished, the offices of Stewards of the Manors were also abolished, but for the reasons explained, in one of the Acts amending the Birkenhead Act, these particular Stewardships were expressly preserved, and they now continue to exist as offices the acceptance whereof causes a member to vacate his seat.

## CHAPTER VI

# THE JUDICIARY, POLICE AND ARMED FORCES

### I

#### *The Judges and Courts of Law*

THE Judges and Courts of Law (or more briefly the Judiciary) play a very important part in the administration and enforcement of the laws of the country, and are one of the great and powerful instruments for protection of the people against oppression and injustice. The Judges are the interpreters of the law, both civil and criminal. Their impartiality and fairness are acknowledged and well known throughout the civilised world: their independence is jealously and strictly preserved, and they cannot be interfered with in the discharge of their duties by the Executive Government nor even, except as will be explained directly, by Parliament.

The Judges are for the most part appointed by the Crown: the Crown acts upon the advice of the Lord Chancellor in appointing all the Judges of the High Court of Justice except the Lord Chief Justice, the Master of the Rolls and the President of the Probate Divorce and Admiralty Division. Those three and the Lord Chancellor himself are appointed on the advice of the Prime Minister, as also are the Judges of the Court of Appeal and the Law Lords: all the Judges of the Supreme Court therefore (the several Courts will be referred to a little later) are appointed by the Crown on the advice of one or other of these two



Ministers who therefore in practice select these Judges: the Prime Minister in advising on the selection of Judges takes advice informally (he is not obliged to do so, and is under no obligation to act on that advice) from legal or judicial sources in much the same way as he obtains advice from Churchmen in the appointment of Archbishops and Bishops. In fact in recent years the Prime Minister has always acted upon the Lord Chancellor's suggestions. The inferior (but now very important and numerous) County Court Judges are appointed by the Lord Chancellor, without reference to the Crown. The appointment of Recorders and also of Metropolitan Police Magistrates is usually in the hands of the Home Secretary, but a few judicial personages are appointed and paid otherwise, the chief of whom is the Recorder of London, who is appointed and paid by the Court of Aldermen of the City of London: but he and others appointed in a somewhat similar way cannot exercise judicial functions until authorised to do so by the Crown acting on the advice of the Lord Chancellor.

Parliament therefore is not concerned in the appointment of Judges.

Any interference with or undue criticism of a Judge, whether by the Executive Government or any member thereof or by any other person or persons, is as a contempt of Court liable to severe punishment. The salaries of the Judges, with a few exceptions such as mentioned above which are paid out of local funds, are fixed by Act of Parliament, and are payable 'out of the Consolidated Fund' instead of by moneys provided by Parliament, so that their conduct cannot be discussed like that of Government servants whose salaries are provided annually by Parliament.

Parliament is of course in the last resort supreme in all matters and can in case of need remove a Judge. But it is a fully recognised rule that no decision or conduct of a Judge in the discharge of his duties can be debated or raised in any way in Parliament except on a substantive motion for the purpose of which notice has to be given by its being placed on the Order Paper of the House. Parliament can, of course, alter the law whenever it chooses, but the interpretation of the law as it exists at the time is entirely a matter for the Judiciary, and Parliament and every member of Parliament is bound by the law as so interpreted.

In criminal matters, sentences imposed by Judges are not infrequently remitted or reduced, but this is in exercise of the Royal Prerogative exercised by the Crown which in such matters is advised by the Home Secretary: such matters are an exercise of the inherent Prerogative of the Sovereign, who can pardon or reduce the punishment of any offender, but they do not take the form of altering the law as laid down by the Judge or Judges concerned.

The various Courts of Law and their functions have grown and developed through many centuries like our Constitution generally, and their history would be outside the scope of this book, but a brief explanation of our Courts as now existing may serve to show how completely this independent Justiciary deals with the interpretation and enforcement of our laws, and protects the people against those forms of oppression by the Crown or the Executive Government or Parliament which might be a serious danger to justice and personal liberties if it were not for this protection.

The principal Courts of Law are constituted now by the Supreme Court of Judicature Act 1875 (re-enacted by a Consolidating Act in 1925), under which there is a High Court or Court of first instance and a Court of Appeal, the High Court being divided into three divisions, the Common Law or King's Bench Division, the Chancery Division or Courts of Equity, and the Probate Divorce and Admiralty Division: the curious fact of this last division dealing with such different matters as Probate of Wills, Admiralty and Maritime cases, and Divorce is due to these matters having all been in earlier times under the jurisdiction of the Ecclesiastical Courts. From the decisions of the High Court, an appeal lies to the Court of Appeal: then there is a further right of appeal in reasonable and proper cases to the House of Lords which is the supreme and highest Court of Appeal: appeals to the House of Lords are heard by that House sitting specially for judicial business and attended by those members of the House who have held high judicial office, which means not less than that of a Judge of the High Court, reinforced by seven specially appointed Lords of Appeal in Ordinary, who are Peers for life only and are appointed as specially qualified for the purpose, and usually having previously been eminent Judges. These appeals to the House of Lords being technically appeals to the King himself, the decisions take the form of reports of the House as to the advice to be given by the House to the King.

Somewhat similar to these judicial functions of the House of Lords are those of the Privy Council which have already been referred to. But the main jurisdiction of the Privy Council does not concern subjects of the United

Kingdom as the appeals which it deals with are those from other parts of the realm, the Dominions, the Colonies and the Indian Empire: but the Privy Council also has jurisdiction in Ecclesiastical cases.

Besides the High Court and the Court of Appeal established by the Supreme Court of Judicature Act, there is the system of the County Courts which deal with a large and important part of the litigation of the country, but whose jurisdiction is limited to minor though still extensive and important cases, and from which appeals may be made to the High Court.

Lower still are the Magistrates' Courts or Police Courts, or 'Petty Sessions', with appeals to Quarter Sessions, with much more limited jurisdiction. These are the courts of the unpaid Justices of the Peace who have not necessarily any legal qualifications, though in certain instances they are presided over, or their functions are discharged by, a legally qualified and paid 'stipendiary magistrate'. A very large part of the business of these petty sessional courts consists of dealing with minor offences, such as charges of being drunk and disorderly, petty thefts, minor acts of personal violence, and such offences as breaches of factory regulations, laws as to lights on vehicles, and failure to take out or obtain licences for the various purposes for which licences are required, and breaches of local by-laws and regulations made by local authorities under authority delegated to them by Parliament.

The Judges of the High Court have jurisdiction in criminal as well as civil matters, though in practice only the Judges of the King's Bench Division and not the Chancery Judges deal with criminal cases.

The Judges of the High Court and Court of Appeal sit mainly at the Law Courts in London in the Strand at Temple Bar. But the Assize Courts sit periodically at the principal (or assize) towns throughout the country, the Judges of the King's Bench Division going 'on circuit' to these towns for the purpose: criminal business so far as not disposed of by Petty Sessions and Quarter Sessions is done at these Assizes and at the Central Criminal Court (the Old Bailey) in the City of London with an appeal to the Court of Criminal Appeal, and further in proper cases to the House of Lords.

## 2

*The Police*

A word should be added about the Police, a non-military body, whose duties include the preservation of order, protection of life and property, prevention and detection of crime, and the bringing before the appropriate Courts of offenders or alleged offenders against the law. Their duties and the many restrictions against their undue or improper exercise of their powers are defined by law, mainly that is by Acts of Parliament and, though they are technically servants of the Crown, they are not subject to the orders of the Crown in the way in which the Military and other fighting forces are necessarily under the control of the Crown.

The Metropolitan Police or London Police (excluding those of the City of London) are recruited by, and are under the administration of, the Central Government through the Home Office or Secretary of State for Home Affairs; but the Police of the City of London, and of other cities

and towns and of counties are recruited by and under local control through Watch Committees and through Standing Joint Committees which are composed of persons nominated in part by County Councils and in part by Quarter Sessions, subject to a certain measure of superintendence by the Home Office.

It is particularly worth noting that Parliament for its physical protection against riots or disorders and so forth relies upon this civilian Police Force, and refuses to have any alleged protection by, or to be in any way interfered with by, the Army or the military forces of the Crown, so that (to the astonishment of most foreigners) no soldiers are on duty in or about the Houses of Parliament.

### 3

#### *The Army and the Armed Forces of the Crown*

This leads to another matter which should be referred to, the position in regard to government, of the Army, and what are called 'the armed forces of the Crown'. It is necessary here only to state briefly the existing position: the history of earlier developments and the details of the position of soldiers must be sought elsewhere, as for example in the chapter on the Army in Dicey's *Law of the Constitution*. The existence of a Standing Army which either is controlled by, or the control of which may be obtained by, a single individual or party or group of individuals is obviously a danger to free government and to the liberty of the people: on the other hand, the existence of a regular or standing army is necessary in this country, not only as the core of such an army as may be necessary

for purposes of defence against outside foes, but for the preservation of order in some of our Colonial possessions and the protection of overseas possessions and rights of the British Crown.

Therefore soldiers in this country are made liable to all the laws which govern the ordinary subject, and the only Standing Army permitted is such as is allowed by and governed by the provisions of what is known as the Army (now the Army and Air Force) Act, an Act of Parliament which has been renewed subject to amendments annually for very many years. (During the emergency of the War of 1939-45 many exceptional arrangements were necessarily made about many matters and especially about the Army and Air Force: so what is written here is applicable to normal times and must be regarded as not always applicable to the time of a great war.) The present normal position therefore is that no military force is permitted or legal, except as specifically allowed by Parliament: what Parliament does allow is a small regular Army and Air Force authorised year by year, for one year at a time only, on the conditions and subject to the provisions contained in the Army and Air Force Act.

## CHAPTER VII

### CONCLUSION

A FEW general observations may be made in conclusion.

Our system of Government has long been the subject of admiration and envy by foreigners; but it has also been a puzzle to them, and is to some extent little understood by many of our own people. This difficulty in understanding it, is partly due to the fact that it has come into existence as a result of development and growth during a period of many centuries, and, as it were, by accident or force of circumstances, rather than by design or through any deliberate or intentional planning. Established by a series of precedents and sanctified by tradition it is not, and scarcely could be, set out in writing. But those chiefly concerned in working it understand it, even if they cannot describe it.

It has two great qualities: it is elastic and adaptable to the circumstances of the time, and it is efficient in performing its work.

The House of Commons, which cannot (except as will be mentioned directly) last for more than five years without a general election, can be dissolved and another elected, at any time within such five years by a Proclamation made by the King on the advice of the Prime Minister; and, in practice, the House itself can force a dissolution if it so desires. Yet in an emergency the life of a Parliament (which includes the House of Commons, the representative Chamber) can be prolonged beyond five years by a Special Act or Special Acts of Parliament.



As illustrating the possibility of a dissolution substantially earlier than five years, it may be mentioned that the Parliament elected in 1918 having lasted almost the normal permitted time was followed by three general elections within two years. On the other hand, the life of Parliament and of the House of Commons was extended in the War of 1914-18 to a total of eight years and again during the War of 1939-45 to a total of nearly ten years.

The Government may be changed during the life of a Parliament without the necessity for a general election: this happened in September 1931, again in May 1940, and also in May 1945, though in the first and last of these three occasions a general election took place very soon after, at the instance of the new Government. Minor reconstructions of a Government without a general election are frequent.

As regards efficiency, it is often said that the methods of Parliament are cumbersome, and that in the House of Commons much time is taken up by speeches, the usefulness of which is difficult to discover. There is some truth in both of these criticisms. As to methods being cumbersome, they are better so than being slipshod or careless: this criticism is often due to some extent to the critics not being sufficiently informed, and Parliament is constantly revising its methods, and may well do so in the future: but two things may at least be said: first, both Houses, the House of Commons in particular, accomplish vastly more business than is generally known, not only in, but also outside, the actual Chamber; and secondly, the House can and does act with speed when necessary, as witness the passing into law in one day of the Gold Standard

Amendment Act of 1931, and the passing of over fifty emergency Acts of Parliament in a few days on the outbreak of war in September 1939.

Reference should be made here to changes and developments since the general election of 1945. In the sessions since then of 1945 and 1946 the House of Commons has carried out legislative business of an amount and an importance which before 1945 would not have been regarded as possible. This has been achieved mainly by an increase in the number of, and making more use of, Standing Committees and suspending the opportunities for Private Members' Business, and has only been possible through the action of the great numerical superiority of the members of the majority party in the House. Apart from those mentioned the changes in the rules of procedure have not been great. It remains to be seen to what extent or for how long the House will continue these methods, and it is not the duty of this book to express opinions as to the advisability or otherwise of such recent changes, but only to record and draw attention to them.

Under every Constitution, of course, but perhaps more especially under ours, success must depend largely upon the human element. Especially is this the case in regard to membership of our House of Commons.

The standards of honour, and of devotion to the public service and the good of the country, of the House of Commons are high: with its long traditions, the tendency is for these standards of the House as a corporate body to be even higher than those of the sum total of individual members, and for membership of the House to raise these standards in its members personally. It is on these high

standards that the prosperity of the country mainly depends, and it is the electorate which is responsible for the selection of suitable members. Hence it is that the country is said to get the Government it deserves, and that it is the imperative duty of every elector in the country to realise his duty and to understand it. His first and primary consideration should be to see that membership of the House of Commons is confined to men and women of high character and unselfish patriotism, to whatever party they may belong. In this connection it may be well to add one practical consideration. Supreme in the long run as is the power of the electors, they cannot deal with the details of government, and they will fail in their duties if they do not realise that their duty is the election of representatives, and not, except on broad general principles and main issues, to attempt to dictate to, or to restrict the free discretion of, such a representative.

## APPENDIX A

### *THE EXECUTIVE GOVERNMENT AS FORMED BY MR ATTLEE IN AUGUST 1945 AND (SUBJECT TO VARIOUS ALTERATIONS) STILL IN OFFICE IN JANUARY 1947*

#### THE CABINET

*Prime Minister:* Rt. Hon. C. R. Attlee, M.P.

*Lord President of the Council:* Rt. Hon. Herbert Morrison, M.P.

*Secretary of State for Foreign Affairs:* Rt. Hon. Ernest Bevin, M.P.

*Lord Privy Seal:* Rt. Hon. A. Greenwood, M.P.

*Chancellor of the Exchequer:* Rt. Hon. Hugh Dalton, M.P.

*President of the Board of Trade:* Rt. Hon. Sir Stafford Cripps, K.C., M.P.

*First Lord of the Admiralty:* Rt. Hon. A. V. Alexander, M.P.

*Lord Chancellor:* Rt. Hon. Lord Jowitt, K.C.

*Secretary of State for the Home Department:* Rt. Hon. J. Chuter Ede, M.P.

*Secretary of State for Dominion Affairs:* Rt. Hon. Viscount Addison.

*Secretary of State for India and Secretary of State for Burma:*  
Rt. Hon. Lord Pethick-Lawrence.

*Secretary of State for the Colonies:* Rt. Hon. G. H. (now Lord) Hall, M.P.

*Secretary of State for War:* Rt. Hon. J. J. Lawson, M.P.

*Secretary of State for Air:* Rt. Hon. Viscount Stansgate, D.S.O., D.F.C.

*Secretary of State for Scotland:* Rt. Hon. J. Westwood, M.P.

*Minister of Labour and National Service:* Rt. Hon. G. A. Isaacs, M.P.

*Minister of Fuel and Power:* Rt. Hon. Emanuel Shinwell, M.P.

*Minister of Education:* Rt. Hon. Ellen Wilkinson, M.P.

*Minister of Health:* Rt. Hon. Aneurin Bevan, M.P.

*Minister of Agriculture and Fisheries:* Rt. Hon. T. Williams, M.P.

#### MINISTERS NOT IN THE CABINET

*Minister of Supply and Aircraft Production:* Rt. Hon. John Wilmot,  
M.P.

*Minister of War Transport:* Rt. Hon. Alfred Barnes, M.P.

*Minister of Food:* Rt. Hon. Sir Ben Smith, K.B.E., M.P.  
*Minister of Works:* Rt. Hon. George Tomlinson, M.P.  
*Minister of Town and Country Planning:* Rt. Hon. Lewis Silkin, M.P.  
*Minister of National Insurance:* Rt. Hon. James Griffiths, M.P.  
*Minister of Information:* Rt. Hon. E. J. Williams, M.P.  
*Minister of Civil Aviation:* Rt. Hon. Lord Winster.  
*Postmaster-General:* Rt. Hon. Earl of Listowel.  
*Minister of State:* Rt. Hon. P. J. Noel-Baker, M.P.  
*Chancellor of the Duchy of Lancaster:* Rt. Hon. J. B. Hynd, M.P.  
*Minister of Pensions:* Rt. Hon. Wilfred Paling, M.P.  
*Attorney-General:* Rt. Hon. Sir Hartley Shawcross, K.C., M.P.  
*Lord Advocate:* Rt. Hon. George R. Thomson, K.C.  
*Solicitor-General:* Rt. Hon. Sir Frank Soskice, M.P.  
*Solicitor-General for Scotland:* (not then appointed).

## OTHER MINISTERS

*Parliamentary and Financial Secretary to the Admiralty:* J. Dugdale, M.P.  
*Civil Lord to the Admiralty:* W. J. Edwards, M.P.  
*Parliamentary Secretary to Ministry of Agriculture and Fisheries:*  
 The Earl of Huntingdon.  
*Parliamentary Under-Secretary of State for Air:* Wing-Commander John Strachey, M.P.  
*Parliamentary Secretary to Ministry of Aircraft Production and of Supply:* A. Woodburn, M.P.  
*Under-Secretary of State for Burma:* A. Henderson, K.C., M.P.  
*Parliamentary Secretary to Ministry of Civil Aviation:* Ivor Thomas, M.P.  
*Under-Secretary of State for Colonies:* A. Creech-Jones, M.P.  
*Under-Secretary of State for Dominion Affairs:* J. Parker, M.P.  
*Parliamentary Secretary to Ministry of Education:* A. Jenkins, M.P.  
*Parliamentary Secretary to Ministry of Food:* Dr Edith Summer-skill, M.P.  
*Under-Secretary of State for Foreign Affairs:* Hector McNeil, M.P.  
*Overseas Trade Department Sec. to Board of Trade:* H. A. Marquand, M.P.  
*Parliamentary Secretary to Ministry of Fuel and Power:*  
 W. Foster, M.P.

*Parliamentary Secretary to Ministry of Health:* C. W. Key, M.P.

*Under-Secretary of State to Home Department:* G. H. Oliver, M.P.

*Under-Secretary of State for India:* A. Henderson, K.C., M.P.

*Parliamentary Secretary to Ministry of Labour and National Service:*  
Ness Edwards, M.P.

*Parliamentary Secretary to Ministry of National Insurance:* G. S.  
Lindgren, M.P.

*Parliamentary Secretary to Ministry of Pensions:* Mrs J. L. Adam-  
son, M.P.

*Assistant Postmaster-General:* W. A. Burke, M.P.

*Joint Under-Secretaries of State for Scotland:* G. Buchanan, M.P.,  
T. Fraser, M.P.

*Parliamentary Secretary to Ministry of Supply and Aircraft Pro-  
duction:* W. Leonard, M.P.

*Parliamentary Secretary to Ministry of Town and Country Planning:*  
Fred Marshall, M.P.

*Parliamentary Secretary to Board of Trade:* Ellis Smith, M.P.

*Overseas Trade Sec. to Board of Trade:* H. A. Marquand, M.P.

*Parliamentary Secretary to the Treasury:* Rt. Hon. William  
Whiteley, M.P.

*Financial Secretary of the Treasury:* W. G. Hall, M.P.

*Lords Commissioners of the Treasury:* R. J. Taylor, M.P., J. Hender-  
son, M.P., F. Collindridge, M.P., Capt. A. Blenkinsop, M.P.,  
R. M. M. Stewart, M.P.

*Under-Secretary of State for War Office:* Lord Nathan.

*Financial Secretary to War Office:* F. J. Bellenger, M.P.

*Parliamentary Secretary to Ministry of War Transport:* G. R.  
Strauss, M.P.

*Parliamentary Secretary to Ministry of Works:* J. H. Wilson, M.P.

## APPENDIX B

### FORM OF 'GUILLOTINE' RESOLUTION

*The following is the latest full 'guillotine' Resolution passed before the outbreak of war in 1939. It will be seen that it deals with two bills, and in one of them no elaborate time-table was necessary. But under heading 'C. General' will be found the provisions usually included in all such resolutions to prevent interruption or delay.*

#### ORDERED,

That the proceedings on the Committee stage, Report stage and Third Reading of the Military Training Bill and Reserve and Auxiliary Forces Bill and the Report stage of the Financial Resolution relating to the last mentioned Bill shall be proceeded with as follows:

#### A. MILITARY TRAINING BILL

##### (1) *Committee Stage*

Five allotted days shall be given to the proceedings on any instructions relating to the Bill and to the Committee stage of the Bill, and the proceedings on each allotted day shall be as shown in the second column of the following table, and those proceedings shall, if not previously brought to a conclusion, be brought to a conclusion at the time shown in the third column for that day.

##### (2) *Report stage and Third Reading*

One allotted day (not being a Friday) shall be given to the Report stage and Third Reading of the Bill and the proceedings thereon shall, if not previously brought to a conclusion, be brought to a conclusion at 11 p.m. on that day.

#### B. RESERVE AND AUXILIARY FORCES BILL

##### (1) *The Report stage of the Financial Resolution and Committee stage of the Bill*

One allotted day shall be given to the Report stage of the Financial Resolution, to the proceedings on any instructions relating to the Bill and to the Committee stage of the Bill, and those

Allotted day	Proceedings	Time for bringing Proceedings to a conclusion
First	Proceedings on Instructions, and Clause 1	10.0 p.m.
	Clause 2	12.0 midnight
Second	Clause 3	8.30 p.m.
	Clause 4	12.0 midnight
Third	Clause 5	7.30 p.m.
	Clause 6	—
Fourth	Clause 6	7.30 p.m.
	Clauses 7 to 17	12.0 midnight
Fifth	New Clauses	7.30 p.m.
	Schedule, new Schedules, and any other matter necessary to bring the Committee to a conclusion	12.0 midnight

proceedings shall, if not previously brought to a conclusion, be brought to a conclusion at 7.30 p.m. on that day.

(2) *Report stage and Third Reading of the Bill*

If on the day allotted under this Order to the Report stage and Third Reading of the Military Training Bill, the Committee stage of the Reserve and Auxiliary Forces Bill has been concluded and the Report stage of the last mentioned Bill is set down as the next Order of the Day after the Order relating to the Military Training Bill, the Report stage of the Reserve and Military Forces Bill shall be proceeded with on that day immediately after the conclusion of the proceedings on the Military Training Bill, and the proceedings on the Report stage and Third Reading of the Reserve and Auxiliary Forces Bill shall, if not previously brought to a conclusion, be brought to a conclusion one hour after the conclusion of the proceedings on the Military Training Bill.



## C. GENERAL

On the conclusion of the Committee stage of each of the Bills aforesaid, the Chairman shall report the Bill to the House without question put.

Any day including the day on which this Order is passed on which the Military Training Bill is put down as the First Order of the Day shall be considered a day allotted to that Bill for the purposes of this Order, and any day on which the Reserve and Auxiliary Forces Bill is put down as the First Order of the Day shall be considered a day allotted to that Bill for the purposes of this Order:

Provided that, where a day so allotted is a Friday, this Order shall have effect as if for references to 7.30 p.m. or 8.30 p.m. and 10 p.m. there were respectively substituted references to 1.0 p.m. and 3.0 p.m., and as if for references to 12 midnight there were substituted references to 3.30 p.m.

For the purpose of bringing to a conclusion any proceedings which are to be brought to a conclusion at a time appointed by this Order, and which have not previously been brought to a conclusion, the Chairman or Mr Speaker shall, at the time so appointed, put forthwith the Question on any Amendment or Motion already proposed from the Chair, and, in the case of a new Clause which has been read a Second time, also the Question that the Clause be added to the Bill, and shall next proceed to put forthwith the Question on any Amendments, new Clauses, or Schedules moved by the Government of which notice has been given (but no other Amendments, new Clauses, or Schedules), and any Question necessary for the disposal of the business to be concluded and, in the case of Government Amendments or Government new Clauses or Schedules, he shall put only the Question that the Amendments be made, or that the Clauses or Schedules be added to the Bill, as the case may be.

Any Private Business which has been set down for consideration at 7.30 p.m., and any Motion for Adjournment under Standing Order No. 8, on any day allotted to the Military Training Bill shall on that day, instead of being taken as provided by the Standing Orders, be taken on the conclusion of the proceedings on that Bill

or under this Order for that day, or, if the Order for the Report stage of the Reserve and Auxiliary Forces Bill is set down as the next Order of the Day after the Military Training Bill on that day, on the conclusion of the proceedings on the Reserve and Auxiliary Forces Bill, or under this Order for that day, and any Private Business or Motion for Adjournment so taken may be proceeded with, though opposed, notwithstanding any Standing Order relating to the Sittings of the House.

On a day on which proceedings are to be brought to a conclusion under this Order, those proceedings shall be exempted from the operation of Standing Order No. 1 notwithstanding anything in that Standing Order.

Notwithstanding anything in the Standing Orders of the House relating to the precedence of business, the Military Training Bill may be set down as the First Order of the Day on any Friday and if so set down shall have precedence of any other business.

On a day on which any proceedings are to be brought to a conclusion under this Order no dilatory Motion with respect to proceedings on either of the Bills aforesaid or under this Order, nor Motion that the Chairman do report Progress or do leave the Chair, nor Motion to postpone a Clause, or to re-commit the Bill, shall be received unless moved by the Government, and the Question on such Motion, if moved by the Government, shall be put forthwith without any Debate.

Nothing in this Order shall:

(a) prevent any proceedings which under this Order are to be concluded on any particular day being concluded on any other day, or necessitate any particular day or part of a particular day being given to any such proceedings if those proceedings have been otherwise disposed of; or

(b) prevent any other business being proceeded with on any particular day, or part of a particular day, in accordance with the Standing Orders of the House, if any proceedings to be concluded under this Order on that particular day, or part of a particular day, have been disposed of.

*[End of Form of Resolution]*

# INDEX

- Accession Council, 32
- Adjournment, Motions for, 81-4;  
    *see also* Urgent Public Im-  
        portance
- Allotted Days, 69
- Archbishops and Bishops, 1
- Armed Forces, 102, 103
- Australia, 2
- Bills, Private, 36  
    Private Members', 36, 39  
    Public, 36
- Black Rod, 17
- British Empire, 2
- Budget, 62-7
- Cabinet, 26-32
- Canada, 2
- Censure, Vote of, 35
- Chairman, 11, 21-3  
    Deputy, 21-3
- Chairmen, Temporary, 21-3  
    of Standing Committees, 23
- Chancellor, Lord, 24, 96, 97
- Chancellor of the Exchequer, 62,  
    65, 66
- Chiltern Hundreds, 95
- Church Assembly Measures, 48
- Clerk, of the House of Commons,  
    11  
    of the Parliaments, 24
- Clerks, of the House of Commons,  
    19, 20  
    of the House of Lords, 24
- Clifton Brown, Speaker, 16
- Closure, 84-8
- Colonies, 2
- Committee, 1, 7, 55-8  
    Departmental, 58  
    Joint, 58  
    of Supply, 70  
    of the whole house, 52-5  
    of Ways and Means, 70  
    Select, 56, 57  
    Sessional, 56, 57  
    Standing, 36-7
- Comptroller and Auditor General,  
    63
- Consolidated Fund, 62  
    Bill, 34
- Counts, 79, 80
- Courts of Law, 98-101
- Debate, Conduct of, 72-5
- Delegation of legislative (or  
    other) powers, 47, 48
- Deputy Speaker, 21-3
- Dilatory Motions, 81, 83
- Disorder, 73-5
- Disqualification of Members, 94
- Dissolution of Parliament, 8
- Dominions, British, 2
- Emergency, Times of, 103-5
- End of Session, *see* Session, End  
    of
- Exchequer, 62
- Executive Government, 4, 26-  
    32, 47, 108
- Exempted Business, 13, 14
- FitzRoy, Speaker, 16
- General Election (1945), 106

- Grievances, 34  
 Guillotine, 69, 87, 88, 111
- House of Commons, 10-13, 48  
 House of Lords, 7  
     Committees, 55  
     Procedure, 7  
 Hybrid Bills, 45, 46
- India, Princes' States in, 2  
     Provinces of British Govern-  
         ors, 2  
     Viceroy of, 2, 74  
 Ireland, Northern, 2  
     Southern, 2  
 Irish Peers, 94
- Judges, 96-101  
     Appointment of, 97  
     County Court, 96  
     Criticism of, 74  
     Payment of, out of Consoli-  
         dated Fund, 97
- King, 1-8  
     not to be referred to in debate,  
         74  
     King's Speeches, 6
- Late Bill, 45  
 Law Lords, 1, 96  
 Legislation, 37-46  
 Lord Chancellor, *see* Chancellor,  
     Lord  
 Lords, 23-6; *see also* House  
     of Lords,
- Mace, The, of the House of  
     Commons, 19  
 Magistrates, 100  
 Mandated Territories, 2
- Messengers of the House of  
     Commons, 10  
 Ministers of Religion, 94  
 Ministers of the Crown, *see also*  
     Executive Government, 3  
 Money Bills, 71
- Naming a Member, 73  
 New Zealand, 2
- Obstruction, 74  
 Orders of the Day, 11, 12
- Parliament Act, 2, 71  
 Paymaster General, 64  
 Payment of Members, 93  
 Peers in House of Commons, 94  
 Petitions, 90-2  
 Police, 101, 102  
 Prayers, 11  
 Prerogative, Royal, 3, 4  
 Prime Minister, 5, 6  
 Private Business, 11, 41-6  
 Private Members' Bills, 39-41  
 Privilege of Parliament, 12  
 Privy Council, 26-32  
 Procedure, Erskine May on, 51  
     *Procedure, Manual of*, 52  
 Proclamations, Royal, 4  
 Profit, Offices of, 94  
 Progress, Report of, 13, 83  
 Protectorates, 2  
 Provisional Order Bills, 46, 47
- Questions, 11, 12, 75-9  
 Quorum, 79, 80
- Royal Assent, 6  
 Royal Commission, 6
- Salaries of Members, 93  
 Scottish Peers, 94

- Seat, Member taking his, 92-5  
 Secret Sittings, 88, 89  
 Selection of Amendments, 86-8  
 Serjeant-at-Arms, 10, 18, 19  
 Session, 7-9  
     End of, 8, 44  
 Sessional Committees (*see* Committees, Sessional)  
 South Africa, 2  
 Sovereignty of House over its own affairs, 51  
 Speaker, 14-18  
     Absence of, 24  
     Criticism of, 18  
     House of, 16  
     Illness of, 24  
 Speaker's Chair, 10, 23  
 Speaker's Chaplain, 10  
 Speaker's Procession, 10  
 Speaker's Train-bearer, 10  
 Speeches of Members, 72, 73  
 Spiritual Peers, 1  
 Standing Committees, *see* Committees, Standing  
 Standing Orders, 14, 41, 50, 51  
 Statutory Rules and Orders, 47  
 Strangers, 88  
 Strangers' Gallery, 18  
 Supply, Committee of, *see* Committee of Supply  
     Supply Days, 53  
     Supply, Debates in, and on going into Committee of, 68-9  
     Suspension, of a member, 73  
         of Sitting, 75  
         of Standing Orders, 14  
     Taxes Act, Provisional Collection of, 67  
     Taxes, Imposition of, 59-60  
     Taxing Clauses in Bills, 60  
     Temporal Peers, 1  
     Ten Minutes Rule, 40  
     Treasury, 62  
     Treasury Bills, 63  
     Urgent Public Importance, Adjournment to discuss matters of, 34  
     Votes, of credit, 68  
         on account, 68  
     War (1939-45), 2  
     Ways and Means, Committee of, *see* Committee of Ways and Means  
     Ways and Means Resolutions, 60, 64-7  
     Woolsack, 24



















